

PROPOSED STANDING COMMITTEE ON  
INTELLIGENCE ACTIVITIES

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REPORT  
OF THE  
COMMITTEE ON  
RULES AND ADMINISTRATION  
Together With  
MINORITY VIEWS  
and  
RECOMMENDATIONS OF THE  
COMMITTEE ON THE JUDICIARY

TO ACCOMPANY

S. Res. 400

TO ESTABLISH A STANDING COMMITTEE OF THE SENATE  
ON INTELLIGENCE ACTIVITIES, AND FOR OTHER PURPOSES



APRIL 29, 1976.—Ordered to be printed

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## PROPOSED STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES

APRIL 29, 1976.—Ordered to be printed

Mr. CANNON, from the Committee on Rules and Administration,  
submitted the following

### REPORT

together with

### MINORITY VIEWS

and

### RECOMMENDATIONS OF THE COMMITTEE ON THE JUDICIARY

[To accompany S. Res. 400]

The Committee on Rules and Administration, to which was referred the resolution (S. Res. 400) to establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute), and recommends that the resolution as amended be agreed to.

Senate Resolution 400 was reported by the Committee on Government Operations on March 1, 1976, and on the same day was referred to the Committee on Rules and Administration for a period extending no later than March 20, 1976. Subsequently, on March 18, 1976, Senate Resolution 400 was referred simultaneously to the Committee on the Judiciary and the Committee on Rules and Administration with instructions that the Committee on the Judiciary make its recommendations<sup>1</sup> to the Committee on Rules and Administration no later than March 29, 1976, and that the Committee on Rules and Administration file its report on Senate Resolution 400 no later than April 5, 1976. By unanimous consent agreement on March 25, 1976, those reporting dates were extended three days, to April 1, 1976, and April 8, 1976, respectively. On April 1, 1976, by unanimous consent, the reporting date of the Rules Committee was further extended, to April 30, 1976.

<sup>1</sup> For the recommendations of the Committee on the Judiciary, see Exhibit 1 in the Appendix to this report.

## RULES COMMITTEE AMENDMENT TO SENATE RESOLUTION 400

The Committee on Rules and Administration is reporting Senate Resolution 400 with an amendment in the nature of a substitute.

The Committee amendment would establish a Senate Select Committee on Intelligence with oversight jurisdiction over the intelligence community, but would leave within the Standing Committees on Armed Services, Foreign Relations, and the Judiciary their existing legislative jurisdictions in respect to intelligence activities. (For a description of the Select Committee as proposed by the Rules Committee amendment see second section below.)

This Committee believes a separate oversight committee, fully and currently informed and armed with subpoena power, can provide effective oversight for the intelligence community without a grant of legislative jurisdiction. No such legislative authority was necessary for the select Senate and House Intelligence Committees which exposed certain abuses. Nor did the Senate "Watergate" Committee have such authority.

## SUMMARY OF SENATE RESOLUTION 400

Senate Resolution 400, as reported by the Committee on Government Operations on March 1, 1976, and on the same day referred to the Committee on Rules and Administration, would establish a new standing Committee of the Senate on Intelligence Activities to oversee and make continuing studies of the intelligence activities and programs of the U.S. Government, and to submit to the Senate appropriate proposals for legislation concerning such activities. The new committee would have 11 members, 6 majority and 5 minority. Continuous service on the committee would be limited to 6 years. The majority members would select the committee chairman, and the minority members would select its vice chairman.

The proposed committee would have legislative jurisdiction over the Central Intelligence Agency and the intelligence activities of all other departments and agencies of the Government, including, but not limited to the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense, the Department of State, the Department of Justice, and the Department of the Treasury. Also, the proposed committee would have authorization authority in respect to the strictly intelligence agencies, and in respect to the intelligence activities of the other departments and agencies listed above.

The jurisdiction of the standing Committees on Armed Services, Foreign Relations, Government Operations, and Judiciary would be accordingly modified or qualified.

Service by staff members of the proposed Committee on Intelligence Activities would be strictly limited to 6 years, and such employees would require strict security clearance.

The resolution contains lengthy provisions relating to disclosure by the committee of intelligence information it receives from the executive agencies, including procedures in case of objection by the President to any such disclosure.

The Select Committee on Standards and Conduct would investigate any alleged unauthorized disclosure of intelligence information by a Member or employee of the Senate, and recommend appropriate action to the Senate.

The records of the Select Committee on Governmental Operations With Respect to Intelligence Activities would be transferred to the new standing committee.

In addition, the proposed standing committee would be directed to engage in a study of a wide variety of subjects bearing on intelligence information and report back to the Senate thereon no later than July 1, 1977.

(For a detailed explanation of Senate Resolution 400, see exhibit 2 in the appendix to this report.)

[NOTE.—Prior to its adoption of the amendment to Senate Resolution 400 in the nature of a substitute, the Committee on Rules and Administration had amended the resolution in several respects. For informational purposes a committee print showing those amendments—later superseded—is included herein. See exhibit 3 in the appendix to this report.]

## PROPOSED SELECT COMMITTEE ON INTELLIGENCE

### ESTABLISHMENT OF THE SELECT COMMITTEE

Section 1 would establish a select committee of the Senate to be known as the Select Committee on Intelligence.

### COMPOSITION OF THE SELECT COMMITTEE

Section 2 would provide that the select committee would be composed of eleven members appointed as follows:

- (A) two members from the Committee on Appropriations;
- (B) two members from the Committee on Armed Services;
- (C) two members from the Committee on Foreign Relations;
- (D) two members from the Committee on the Judiciary; and
- (E) three members from the Senate who are not members of any of the committees named in clauses (A) through (D).

Members appointed from each committee named in clauses (A) through (D) would be appointed by the chairman of each such committee, one member to be appointed from the majority party of the Senate and one member to be appointed from the minority party of the Senate upon recommendation of the ranking minority member of each such committee. Two of the members appointed under clause (E) would be appointed by the President *pro tempore* of the Senate upon the recommendation of the majority leader of the Senate and one would be appointed by the President *pro tempore* of the Senate upon the recommendation of the minority leader of the Senate.

The majority leader of the Senate and the minority leader of the Senate would be *ex officio* members of the select committee but would have no vote in the committee and would not be counted for purposes of determining a quorum.

The chairman of the select committee would be elected by the members of such committee.

### DUTIES OF THE SELECT COMMITTEE

Section 3 would pose in the Select Committee the duty to study and review, on a continuing basis, the intelligence activities and programs of the Director of Central Intelligence and the intelligence activities and programs of all departments and agencies of the Government, including, but not limited to, those specified below, for the purpose of (1) analyzing, appraising, and evaluating such activities and programs, (2) determining whether such programs and activities are in conformity with the Constitution and laws of the United States, and (3) keeping the Senate and the appropriate standing committees of the Senate informed regarding intelligence matters it deems should be called to the attention of the Senate and such committees.

The departments and agencies of the Government referred to above are:

- (1) the Central Intelligence Agency;
- (2) the Department of Defense, including the Defense Intelligence Agency, the National Security Agency, and the intelligence elements of the military departments;
- (3) the Department of State; and
- (4) the Department of Justice.

The Select Committee would also have the duty to study and review the organization and reorganization of any department or agency of the Government to the extent that that organization or reorganization would relate to a function or activity involving intelligence activities.

#### SPECIAL STUDY BY THE SELECT COMMITTEE

Section 4 would direct the Select Committee to make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence—

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(8) the procedures and practices for the authorization of funds for the intelligence activities of the government and whether such practices and procedures should be modified, including consideration of whether the disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

The select committee could in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

The Select Committee would report the results of the study provided for under this section to the Senate, together with such comments and recommendations as it deems appropriate, not later than July 1, 1977.

#### REPORTS OF THE SELECT COMMITTEE

Section 5 relates to reports of the Select Committee.

*Reports Containing Sensitive Information.*—Any report submitted to the Senate by the Select Committee, including the special report provided for in section 4, if such report contains information submitted to the Senate or Select Committee by the executive branch requesting that such information be kept secret, would first be submitted to the Senate in closed session if the Select Committee determines that such report contains information which, if publicly disclosed, might adversely affect the national security. The Senate would determine whether or not such information would be publicly disclosed.

*Reports to Standing Committees.*—Members of the Select Committee would report from time to time to the standing committees from which they were appointed regarding intelligence matters disclosed to the Select Committee and which would be within the respective jurisdictions of such standing committees.

*Security of Information.*—The Select Committee would adopt and follow such procedures as may be necessary to appropriately insure the security of all records, data, charts, files, and other materials in its possession.

#### POWERS OF THE SELECT COMMITTEE

Section 6 would authorize the Select Committee in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, (7) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, as amended, and (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

The Chairman of the Select Committee or any member thereof could administer oaths to witnesses.

Subpoenas authorized by the Select Committee could be issued over the signature of the Chairman or any member of the Select Committee designated by him, and could be served by any person designated by the Chairman or member signing the subpoena.

EXEMPTION OF SELECT COMMITTEE FROM CERTAIN RULES OF THE  
SENATE

Section 7 would exempt the Select Committee from certain Standing Rules of the Senate.

For the purposes of paragraph 6 (a) and (f) of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the Select Committee would not be taken into account.

Any meeting of the Select Committee would be exempted from the provisions of paragraph 7(b) of rule XXV of the Standing Rules of the Senate if such committee determines it will be considering matter or receiving testimony or evidence at such meeting the public disclosure of which might adversely affect the national security of the United States.

TRANSFER OF RECORDS

Section 8 would provide that upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody or control of such committee, under appropriate conditions established by it, would be transferred to the Select Committee proposed herein.

AUTHORIZATION FOR EXPENDITURES

Section 9 would provide that for the period from the date this proposal is agreed to through February 28, 1977, the expenses of the Select Committee would not exceed \$275,000, of which amount not to exceed \$30,000 would be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended.

## EXPLANATION OF RULES COMMITTEE ACTION

The Committee on Rules and Administration has given careful and due consideration to the establishment in the Senate of a Standing Committee on Intelligence Activities, as proposed by Senate Resolution 400. In the Committee's judgment the creation of such a standing committee at this time would be precipitate and unwise, and constitute an overreaction to the recently disclosed and certainly undesired illegal and unauthorized activities within certain agencies of the Federal intelligence community. Also, should the Senate ultimately in its wisdom determine to establish a Standing Committee on Intelligence Activities, such new committee, in this Committee's judgment, should be much more in line with the format and procedures of the existing standing committees than is contemplated under Senate Resolution 400. A discussion of these and other points follows.

### TIME FACTOR

The Committee on Rules and Administration feels that the creation of any new standing committee of the Senate is a very serious undertaking and should not be engaged in, if at all, until all implications of the action are thoroughly explored over a considerable period of time. In this Committee's judgment the time frame for such an important determination has not been available, especially in view of the Senate's direction to this Committee to report Senate Resolution 400 by April 30, 1976.

Two other factors have influenced the Committee's position in this respect. First, it would certainly appear unwise to rush into the creation of a new Standing Committee on Intelligence Activities before the Members of the Senate had an opportunity to study and digest the findings of the present Select Committee to Study Governmental Operations With Respect to Intelligence Activities, whose final report is in the process of being released. Secondly, since the Senate has just created a new Select Committee to Study the Senate Committee System, with a mandate to report to the Senate by February 28, 1977, it would certainly appear logical that any proposal to create a Standing Committee on Intelligence Activities should receive consideration by that Select Committee in conjunction with its overall study of committee jurisdictions.

### THE JURISDICTION ISSUE

The overriding question posed by Senate Resolution 400 is this: Shall the jurisdictions of the existing Standing Committees on Armed Services, Foreign Relations, and the Judiciary over intelligence activities of the Departments or agencies within their respective legislative areas be stripped therefrom and collectively be posed in a new Standing Committee of the Senate on Intelligence Activities? Admittedly, the concept of gathering legislative responsibility for all intelligence

activities of the Federal Government within one Legislative entity has a nice ring to it and would appear to be a logical concept. Also, it would be more convenient for the officials of the intelligence agencies in the Executive branch who presently report to Congress. In the Senate they could reduce the number of committees they brief from four to two—Intelligence and Appropriations. However, if legislation were to be considered which provided for concurrent jurisdiction between a new committee and the existing oversight committees, the Departments of Defense, Justice and State and the CIA could be subject to conflicting directives from their oversight committees which could seriously hamper their management and efficiency.

The Committee on Rules and Administration has carefully weighed this proposal, which is the heart of Senate Resolution 400, and found it to be completely unsatisfactory—at least until there has been a complete review of the jurisdictional structure of Senate committees. To strip away the present jurisdictions of the Armed Services, Foreign Relations, and Judiciary Committees over intelligence activities within their present legislative areas of concern would seriously damage the abilities of those committees to adequately perform the overall duties the Senate has assigned to them. It would remove from those vitally important committees the means of access to information which is necessary for their proper functioning.

*Armed Services Committee.*—The Committee on Rules and Administration believes that legislative jurisdiction, including authorizations, for the Central Intelligence Agency and for the Defense Department agencies concerned with intelligence should remain with the Committee on Armed Services. National intelligence is and should continue to be an integral part of the “common defense generally” for which the Committee on Armed Services has long been responsible.

In its appraisal of military threats against the United States and its consideration of U.S. military preparedness, the Committee on Armed Services is a major “user” of national intelligence from the CIA and the intelligence agencies in the Department of Defense. The Committee on Armed Services has a continuing need for the best intelligence available with respect to the capabilities and intentions of other nations.

In addition to its use of foreign intelligence, the Armed Services Committee has a fundamental role in the production of foreign intelligence. The Armed Services Committee must channel resources to the U.S. foreign intelligence community so as to ensure that authorized intelligence activities will make the most valuable contribution to our national defense. Foreign intelligence should not become an end in itself. On the contrary, it should serve the national defense.

The Armed Services Committee must evaluate and balance U.S. intelligence activities with other defense activities.

For example, research and development for satellite intelligence must be evaluated in conjunction with the research and development for a variety of U.S. missile programs. The procurement of sophisticated equipment for ocean surveillance must be judged in relation to procurement for anti-submarine warfare and sealift capabilities. The number of people engaged in collecting and analyzing intelligence must be assessed against the number of personnel devoted to other defense activities such as strategic forces, command and control, etc.

Eighty-five percent of all foreign intelligence resources are contained within the Defense Department. The majority of the remaining intelligence resources, such as the CIA itself, are deeply involved in producing defense intelligence. Thus, it would be impractical as well as unwise to attempt to separate foreign intelligence efforts from national defense efforts.

In recent months the attention of the Senate and House has been drawn to a number of disturbing abuses which have occurred, over the years, in the intelligence community. It should be noted, however, that covert action abroad, domestic intelligence in the United States, and the other intelligence programs which have lent themselves to abuses, make up only a small fraction of the total intelligence effort. Certainly it is vitally important to prevent further abuses. But steps to prevent further abuses need not interfere with sound congressional authorization and direction of intelligence programs as an integral element of the national defense effort.

*Committee on Foreign Relations.*—Like the Armed Services Committee, the Foreign Relations Committee is vitally dependent on foreign intelligence. Accurate and timely information about foreign countries is indispensable to approving treaties, evaluating U.S. foreign policies, and authorizing economic and military assistance and sales. The Committee on Rules and Administration believes that any diminution in this capability could seriously hamper the ability of the Committee to fulfill its jurisdictional responsibility over matters concerning "Relations of the United States with foreign nations generally."

In addition, the Foreign Relations Committee must authorize on an annual basis, the level and distribution of the budget for the Department of State. This authorization provides funding for the Bureau of Intelligence and Research which has among its responsibilities a mandate to make certain that the Department's views are taken into consideration in decisions on intelligence policy. It is important that this Bureau be funded as an integral part of the Department of State rather than being primarily considered as a part of the intelligence community in order that its independence as a State Department entity capable of serving a positive critical role within that community be maintained. The Bureau of Intelligence and Research is an integral part of the Department of State and should remain under the jurisdiction of the Foreign Relations Committee.

Other intelligence activities, such as covert operations, can have a profound effect on U.S. foreign relations. Although such non-intelligence gathering activities are a small fraction of U.S. foreign intelligence efforts, in certain situations they can be a primary component of U.S. foreign relations. If the Foreign Relations Committee is to be responsible for the state of U.S. foreign relations, it must not be totally divorced from such intelligence operations. Thus, the Foreign Relations Committee must not be deprived of its existing legislative jurisdiction over the intelligence community.

Moreover, legislative proposals which would give a new intelligence oversight committee primary jurisdiction over all U.S. intelligence activities are possibly in conflict with Public Law 93-559, Sec. 662 of which provides that presidential reports on covert actions be provided to the "appropriate committees . . . and the Foreign Relations Committee of the Senate . . ." It is arguable under the doctrine "one

Congress cannot bind its successors except by Constitutional amendment" that legislation which would alter the Rules of the Senate—as does S. Res. 400 as reported by the Government Operations Committee—would take precedence over a law passed in a preceding Congress. Under this doctrine, as derived from the Constitution—Article 1, Section 5, clause 2, of the Constitution states that "each House may determine the rules of its proceedings . . ."—it is arguable that the Foreign Relations Committee could lose its statutory authority to receive presidential reports on covert actions. If this were the case, the Foreign Relations Committee would be deprived of providing its "advice and consent" on this critical aspect of American foreign policy.

*Committee on the Judiciary.*—For similar reasons the Committee on Rules and Administration believes that legislative authority over the functions of the Justice Department, including those of the Federal Bureau of Investigation, should remain within the exclusive jurisdiction of the Committee on the Judiciary.

The Committee believes that the intelligence activities of the Department of Justice are so intertwined with its law enforcement function that a splitting of congressional jurisdiction over these activities between the Committee on the Judiciary and the proposed Standing Committee on Intelligence Activities would create confusing and conflicting congressional guidance to the agency.

Unlike other intelligence gathering agencies, the FBI is primarily a law enforcement agency. The intelligence activity of the FBI is a means by which it detects and investigates violations of federal criminal laws. Because this activity is so integrally related to the criminal investigatory function of the FBI and the Department of Justice, it is the belief of the Committee that all legislative authority should be continued to be dealt with as a unit within the jurisdiction of the Committee on the Judiciary.

#### SUMMARY OF COMMITTEE POSITION

The Committee on Rules and Administration believes that under the existing circumstances the action it has taken in respect to Senate Resolution 400 is a rational and practical solution to a problem which needs to be faced by the Senate—how to establish a more effective procedure in discharging its responsibilities in respect to Federal intelligence activities. In this Committee's judgment the establishment of a Standing Committee on Intelligence Activities at this time would be premature, and, as expressed above, constitute an overreaction to the undesirable situation within the Federal intelligence community which has recently become exposed to public view.

The Rules Committee believes the way to meet this problem is not to precipitously tear away from the Standing Committees on Armed Services, Foreign Relations, and the Judiciary their existing jurisdictions over the intelligence activities within their purview and pose such jurisdictions collectively in a new standing committee. Perhaps ultimately such action will prove to be the most desirable. But it should await the serious and considered judgment of the new Select Committee which the Senate has just created to study and review its entire committee jurisdictional set-up.

In the meantime, the Select Committee on Intelligence proposed in this Committee's substitute for Senate Resolution 400 can immediately

proceed with oversight of all Federal intelligence activities—in effect continuing the excellent work commenced and accomplished by the present Select Committee on Intelligence Activities (which will soon cease to exist), but with overall consideration as opposed to the exposure of abuses within the system. At the same time, the new Select Committee would be giving serious consideration and study to the desirability of the ultimate establishment of either a standing committee of the Senate on intelligence or a joint committee on the same subject (in the nature of the Joint Committee on Atomic Energy).

There is no intention by the Committee on Rules and Administration that this new select committee would be temporary or ad hoc in nature. Rather it is envisioned to operate in a manner similar to the operation of the Senate Select Committee on Small Business, which for many years has served a useful and beneficial purpose in the area of small business interests and the Senate's responsibilities therewith. In other words, the proposed Select Committee on Intelligence advocated by this Committee would terminate only when and if the Senate in its wisdom ultimately decided upon either the standing-committee or the joint-committee approach.

Finally, the more cautious, limited, and in its judgment more reasoned approach advocated by the Committee on Rules and Administration should not be construed by the proponents of Senate Resolution 400 as introduced, or by others, as indicating any lesser concern by a majority of this Committee with the intelligence problem the Senate must face up to. Any differences in viewpoint relate only to the means to be employed and not to the desired end to be achieved.

## ROLLCALL VOTES IN COMMITTEE

In compliance with sections 133 (b) and (d) of the Legislative Reorganization Act of 1946, as amended, the record of rollcall votes in the Committee on Rules and Administration during its consideration of Senate Resolution 400 is as follows:

1. Motion by Senator Allen to strike the words "other than the matters specified in clause A or D," from Senator Clark's proposed substitute for section 3(c): Approved: 5 yeas; 4 nays.

YEAS—5

Mr. Cannon  
Mr. Robert C. Byrd  
Mr. Allen  
Mr. Hugh Scott  
Mr. Griffin

NAYS—4

Mr. Pell  
Mr. Williams  
Mr. Clark  
Mr. Hatfield <sup>1</sup>

2. Motion by Senator Clark to insert the clause "subject to the provisions of Rule XVI of the Standing Rules of the Senate" at the commencement of Section 11. Rejected: 3 yeas; 5 nays.

YEAS—3

Mr. Williams  
Mr. Clark  
Mr. Hatfield <sup>1</sup>

NAYS—5

Mr. Cannon  
Mr. Robert C. Byrd  
Mr. Allen  
Mr. Hugh Scott <sup>1</sup>  
Mr. Griffin

3. Question of approving Senator Cannon's amendment in the nature of a substitute (establishment of a select rather than a standing committee): Approved: 5 yeas; 4 nays.

YEAS—5

Mr. Cannon  
Mr. Robert C. Byrd  
Mr. Allen  
Mr. Hugh Scott <sup>1</sup>  
Mr. Griffin

NAYS—4

Mr. Pell  
Mr. Williams  
Mr. Clark  
Mr. Hatfield <sup>1</sup>

4. Question of reporting Senate Resolution 400 favorably to the Senate with the amendment in the nature of a substitute: Approved: 5 yeas; 4 nays.

YEAS—5

Mr. Cannon  
Mr. Robert C. Byrd  
Mr. Allen  
Mr. Hugh Scott <sup>1</sup>  
Mr. Griffin

NAYS—4

Mr. Pell  
Mr. Williams  
Mr. Clark  
Mr. Hatfield <sup>1</sup>

<sup>1</sup> Proxy.

## MINORITY VIEWS OF MR. CLARK, MR. HATFIELD, MR. PELL, AND MR. WILLIAMS

The Committee on Rules and Administration has made a conscientious effort to report a measure creating a new Senate Committee with jurisdiction over the national intelligence community. In our judgment, however, the Rules Committee substitute to Senate Resolution 400, adopted by a 5-4 vote, would not grant this new Committee sufficient authority to properly carry out this important function.

Both the Rockefeller Commission and the Senate Select Committee on Intelligence Activities concluded from their extensive investigations that Congress has failed to exercise effective oversight of the Central Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, and other agencies involved in intelligence activities. Both the Commission and the Select Committee called for the establishment of permanent standing committees on intelligence with legislative jurisdiction to provide such oversight in the future.

As originally proposed by the Select Committee, and as reported by the Committee on Government Operations, S. Res. 400 would create a new committee vested with the necessary powers for adequate oversight—most importantly, legislative and budgetary authority. We believe there are a number of compelling reasons to create such a committee:

1. *To insure that the intelligence community shall be accountable to Congress.*—With a new committee primarily responsible for national intelligence activities, the agencies involved in such activities would be brought under continuing scrutiny by the Congress. Under the present system, no single committee has jurisdiction over all segments of the intelligence communities. Responsibility for intelligence agencies rests with committees such as Armed Services, Judiciary, and Foreign Relations, whose primary focus is not in intelligence activity. Heavily occupied with other vital matters, these committees are unable to devote adequate attention to the intelligence community. As Senator Frank Church, Chairman of the Select Committee, has emphasized:

The work cannot be done on a piecemeal basis or by a subcommittee of another standing committee which is primarily engaged in a different preoccupation. It will require a well staffed committee directing all of its attention to the intelligence community.

2. *To prevent the violation of the rights of citizens.*—We strongly believe that national intelligence is vital to the security of the nation. However, the power of the intelligence community is easily abused if not held to account, and such abuse unquestionably has occurred. We have learned that, without the knowledge of Congress, the CIA and the FBI conducted a 20-year mail cover program; that the CIA, in violation of its charter, collected information on thousands of citizens opposed to the Vietnam War (the CHAOS program); that the NSA,

without judicial warrant, intercepted the cables and international communications of citizens; and that the FBI conducted COINTEL-PRO operations to disrupt the activities of groups expressing political dissent, and carried out a program to discredit Dr. Martin Luther King, Jr. As the Select Committee has observed, many of these illegal activities would have been impossible if Congress had exercised effective oversight of these agencies.

3. *To help restore the role of Congress as a co-equal branch of Government.*—In failing to adequately control the activities of the intelligence agencies abroad, Congress, in effect, has appropriated funds without knowing how they would be spent by the Executive to carry out foreign policy objectives. Without the knowledge or approval of the full Congress, the CIA has received funds to carry out paramilitary operations in Chile and Laos and assassination attempts against a number of foreign leaders. At the same time, Congress has refrained from demanding access to vital intelligence information concerning matters of foreign policy upon which it is called to act.

By establishing an effective oversight mechanism, Congress can assert its right to essential information and begin to define the proper limits of secrecy in a democratic society.

4. *To improve the capability of our intelligence agencies.*—Contrary to the views of some critics, oversight does not threaten to destroy our intelligence capability. As we know from the Select Committee's Final Report, there is much duplication, waste, and inefficiency in the intelligence community. Proper oversight would enable Congress to develop and implement the means by which intelligence could be made more cost effective and more reliable.

5. *To redefine the roles of the intelligence agencies.*—As the recent investigations have shown, the intelligence agencies need new statutory guidelines or charters. The National Security Act of 1947 has been interpreted by the Executive to allow CIA domestic intelligence gathering. The FBI has no statutory authority for its intelligence mission, and the Charter of the NSA is a classified document. Through oversight, the Congress can begin to frame appropriate new charters for the agencies and new guidelines for their activities. As the Select Committee's Final Report emphasizes:

It is clear that a primary task for any successor oversight committee, and the Congress as a whole, will be to frame basic statutes necessary under the Constitution within which the intelligence agencies of the United States can function efficiently under clear guidelines.

6. *To restore public trust in Government institutions.*—The revelation of intelligence agency abuses, violations of law, covert operations, and infringements on civil liberties has contributed greatly to the erosion of confidence in the Federal Government. The Senate can help to restore lost confidence by demonstrating its willingness to fulfill its constitutional role in the conduct of intelligence activities. As the Report of the Committee on Government Operations states:

A new intelligence committee can mark a new start. It can provide a forum to begin restoring the trust and confidence the intelligence agencies must have to operate effectively. It can formalize in an open and definitive manner the Senate's intention to exercise close oversight over a very important

part of the Government's activities. Oversight by Congress is essential under our constitutional system. By its actions it can help assure the public that the abuses of the past will not be repeated in the future. Until full trust and confidence in our intelligence agencies are restored, the country will be unable to conduct a fully effective intelligence program.

We believe that the Rules Committee substitute amendment does not do enough to change the way the Senate operates in the area of intelligence activities. In our judgment, the substitute would fall short in the effort to reassure the country that the United States will continue to have an effective intelligence community in which the public can have confidence.

We believe that the Committee substitute suffers from the following serious deficiencies:

1. It would create a new select committee with authority to study the intelligence agencies and report to the Senate and to the other committees, but which would have no legislative authority. It might uncover abuses, inefficiencies, or inadequacies in our intelligence agencies but it would be unable to do anything about them. It could take no legislative action to remedy past abuses or to prevent abuses from occurring in the future. It would be unable to take action to change the size or nature of the budgets of the intelligence agencies.

The Select Committee on Intelligence has just released a report based on its 15 month study of the intelligence community. Its final report contains over 170 recommendations, including many requiring legislation. Now is the time for the Senate to consider these legislative recommendations. Instead of creating a new committee with the proper legislative jurisdiction to consider and act on these proposals, in a comprehensive way, the proposed select committee would be limited to conducting further investigations and making more recommendations. What is needed is legislative action, not further study.

2. Creation of a select committee without legislative or authorizing jurisdiction would add still another committee to the committees now concerned with segments of the intelligence community. The Senate should be seeking to reduce, as much as possible, the proliferation of committees involved in the highly sensitive area of intelligence activities.

Mr. George Bush, Director of the Central Intelligence Agency, wrote this Committee on April 24, 1976, concerning S. Res. 400. In that letter he stated:

I share the President's view stated in his 18 February message to Congress that the nation's foreign intelligence effort would be best served by centralizing the responsibility for oversight of our foreign intelligence community. As the President stated, "The more committees and subcommittees dealing with highly sensitive secrets, the greater the risks of disclosure." Such concentrated jurisdiction would give one committee an overall, rather than parochial, view of the intelligence community.

The action taken by the Committee is in conflict with this goal.

3. The substitute does not provide for annual authorization of the intelligence budget. Thus the present process, which does not include

periodic and formal review of intelligence community expenditures by an authorizing committee, could continue.

4. The substitute would not require that the intelligence agencies keep the new committee fully and currently informed, or that they inform the committee in advance of significant anticipated activities. The committee must be so informed if it is to do an effective job of oversight. In the past, the Senate has not received, in a timely fashion, the information it needs to properly oversee the intelligence community. As a result, abuses have been permitted to occur. As a result, the United States has been seriously damaged when the Executive secretly entered into policies and engaged in actions which, when disclosed, were rejected by the Congress and the country. The Committee substitute would fail to place the Senate clearly on record as saying that, henceforth, it must be informed in a more complete and more timely manner.

5. The substitute's procedure for selecting members of the new committee would insure that the new committee will, in effect, be an extension of the committees or subcommittees that have been solely responsible for Congressional oversight of the intelligence community in the past. Eight of the eleven members of the new committee would have to be chosen from among the members of the Armed Services, Judiciary, Foreign Relations, and the Appropriations Committees. While in the case of every other permanent committee members are selected by the entire Senate, these eight members are to be selected by the Chairmen of the respective committees.

In short, the proposed substitute does not create the right kind of Committee with the right kind of powers and jurisdiction. In our view, the substitute would fail to reassure the Executive Branch and the public that the Senate is ready to take decisive action to remedy the mistakes of the past and prevent the mistakes of the future.

We believe the essential components of any effective Senate intelligence committee would be as follows:

1. Primary authority to consider and act on the budgets for the agencies within its jurisdiction;

2. A requirement that such budgets be authorized on an annual basis;

3. Legislative authority with respect to the principal elements of the U.S. intelligence community—the C.I.A., N.S.A., D.I.A., and the intelligence divisions of the F.B.I. and the Department of State;

4. Establishment on a permanent basis, with all powers currently accorded standing committees of the Senate;

5. The right to be fully and currently informed on all significant intelligence activities; and

6. Membership appointed according to the regular procedures from the Senate at large, including representatives from the committees directly affected by the activities of the intelligence agencies, and serving on a rotating basis.

When this matter comes to the Senate floor, we shall oppose the Committee substitute and seek a final product which will incorporate these elements.

DICK CLARK,  
MARK O. HATFIELD,  
CLAIBORNE PELL,  
HARRISON A. WILLIAMS, JR.

# APPENDIX

## EXHIBIT 1

### RECOMMENDATIONS OF THE COMMITTEE ON THE JUDICIARY

On March 18, 1976, Senate Resolution 400 was referred simultaneously to the Committee on the Judiciary and the Committee on Rules and Administration with instructions that the Committee on the Judiciary make its recommendations to the Committee on Rules and Administration no later than March 29, 1976 (subsequently extended by unanimous consent to April 1, 1976). The Committee on the Judiciary has so reported its recommendations, which are included here as part of the report of the Committee on Rules and Administration to accompany Senate Resolution 400, as follows:

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C., March 30, 1976.*

HON. HOWARD W. CANNON,  
*Chairman, Senate Rules Committee,  
Senate Office Building,  
Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the March 18, 1976 order of the Senate referring Senate Resolution 400 to the Committee on the Judiciary with instructions to make recommendations to the Committee on Rules and Administration, I wish to advise you that the Committee on the Judiciary met on March 30, 1976, and recommends the resolution favorably with amendments.

The effect of the amendments approved by the Committee on the Judiciary would be to delete from Senate Resolution 400 the grant of jurisdiction to the proposed Committee on Intelligence Activities over the intelligence activities of the Department of Justice, including the Federal Bureau of Investigation.

The amendments would retain in the Committee on the Judiciary its historic jurisdiction over the Department of Justice, including the FBI.

A Judiciary Committee print of Senate Resolution 400, as amended, is attached.

With best wishes and kindest regards, I am

Sincerely yours,

JAMES O. EASTLAND,  
*Chairman.*

PURPOSE OF AMENDMENTS TO S. RES. 400 CONTAINED IN COMMITTEE  
PRINT NO. 1

The total effect of the various amendments contained in committee print number one is to retain the present jurisdiction of the Committee on the Judiciary over all functions of the Federal Bureau of Investigation and to strike from Senate Resolution 400 all grants of jurisdiction to the contemplated Committee on Intelligence Activities over the FBI.

The intelligence activities of the Department of Justice are exempted from the grant of jurisdiction of the contemplated Committee on Intelligence Activities to be contained in proposed subparagraph (s) of rule XXV of the Standing Rules of the Senate by striking out "the Department of Justice" on page 4, line 8 of the bill.

Since the proposed subparagraph (s) of rule XXV states, in lines 4 and 5 on page 4 that the provisions are applicable not only to the enumerated departments and agencies, "but not limited to" those listed, the language of page 4, lines 9 and 10 is amended by striking the period, inserting in lieu thereof a semicolon and the words: "but not including the Department of Justice."

The inclusion of jurisdiction in the proposed Committee on Intelligence Activities over authorizing legislation concerning the intelligence activities of the FBI is removed by striking line 24 on page 4 through line 2 on page 5.

The reference to "bureau" in line 7 of page 5 is removed since the Federal Bureau of Investigation would not be included within the jurisdiction of the proposed committee.

The language of Senate Resolution 400 which takes away the jurisdiction of the Committee on the Judiciary over the intelligence activities of the Department of Justice by amending subparagraph (1) of paragraph 1 of rule XXV of the Standing Rules of the Senate is deleted by striking out lines 5 through 8 of page 6 of the bill.

The intelligence activities of the FBI are exempted from the mandatory authorizing language of section 11 of Senate Resolution 400 by striking out lines 3 through 5 on page 16 of the bill.

Other technical amendments redesignate sections of the bill to conform to the changes made by the amendments.

# JUDICIARY COMMITTEE PRINT

MARCH 30, 1976

94TH CONGRESS  
2D SESSION

## S. RES. 400

[Report No. 94-675]

### IN THE SENATE OF THE UNITED STATES

MARCH 1, 1976

Mr. MANSFIELD (for Mr. RIBICOFF) (for himself, Mr. CHURCH, Mr. PERCY, Mr. BAKER, Mr. BROCK, Mr. CHILES, Mr. GLENN, Mr. HUDDLESTON, Mr. JACKSON, Mr. JAVITS, Mr. MATHIAS, Mr. METCALF, Mr. MONDALE, Mr. MORGAN, Mr. MUSKIE, Mr. NUNN, Mr. ROTH, Mr. SCHWEIKER, and Mr. WECKER) submitted the following resolution; which was referred to the Committee on Government Operations

MARCH 1, 1976

Reported by Mr. MANSFIELD (for Mr. RIBICOFF), without amendment

MARCH 1, 1976

Referred to the Committee on Rules and Administration for a period extending no later than March 20, 1976

MARCH 18, 1976

Reported by Mr. MANSFIELD (for Mr. CANNON), without amendment

MARCH 18, 1976

Referred simultaneously to the Committee on the Judiciary and the Committee on Rules and Administration with instructions that the Committee on the Judiciary make its recommendations to the Committee on Rules and Administration no later than March 29, 1976, and that the Committee on Rules and Administration files the report no later than April 5, 1976

MARCH , 1976

Reported by Mr. -----, from the Committee on the Judiciary

~~omit the part struck through and insert the part enclosed in brackets~~

## RESOLUTION

To establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

- 1 *Resolved*, That it is the purpose of this resolution to
- 2 establish a new standing committee of the Senate, to be

1 known as the Committee on Intelligence Activities, to over-  
2 see and make continuing studies of the intelligence activities  
3 and programs of the United States Government, and to  
4 submit to the Senate appropriate proposals for legislation  
5 concerning such intelligence activities and programs. In  
6 carrying out this purpose, the Committee on Intelligence  
7 Activities shall make every effort to assure that the appro-  
8 priate departments and agencies of the United States provide  
9 informed and timely intelligence necessary for the executive  
10 and legislative branches to make sound decisions affecting the  
11 security and vital interests of the Nation. It is further the  
12 purpose of this resolution to provide vigilant legislative over-  
13 sight over the intelligence activities of the United States to  
14 assure that such activities are in conformity with the Con-  
15 stitution and laws of the United States.

16 SEC. 2. Rule XXIV of the Standing Rules of the Senate  
17 is amended by adding at the end thereof a new paragraph  
18 as follows:

19 "3. (a) Six members of the Committee on Intelligence  
20 Activities shall be from the majority party of the Senate and  
21 five members shall be from the minority party of the Senate.

22 "(b) No Senator may serve on the Committee on In-  
23 telligence Activities for more than six years of continuous  
24 service, exclusive of service by any Senator on such commit-  
25 tee during the Ninety-fourth Congress. To the greatest extent.

1 practicable, at least three but not more than four Members  
2 of the Senate appointed to the Committee on Intelligence  
3 Activities at the beginning of the Ninety-sixth Congress and  
4 each Congress thereafter shall be Members of the Senate  
5 who did not serve on such committee during the preceding  
6 Congress.

7 “(c) At the beginning of each Congress, the members  
8 of the Committee on Intelligence Activities who are mem-  
9 bers of the majority party of the Senate shall select a chair-  
10 man, and the members of such committee who are from the  
11 minority party of the Senate shall select a vice chairman. The  
12 vice chairman shall act in the place and stead of the chair-  
13 man in the absence of the chairman. Neither the chairman  
14 nor the vice chairman of the Committee on Intelligence  
15 Activities shall at the same time serve as chairman or rank-  
16 ing minority member of any other committee referred to in  
17 paragraph 6 (f) of rule XXV of the Standing Rules of the  
18 Senate.”

19 SEC. 3. (a) Paragraph 1 of rule XXV of the Standing  
20 Rules of the Senate is amended by adding at the end thereof  
21 the following new subparagraph:

22 “(s) Committee on Intelligence Activities, to which  
23 committee shall be referred all proposed legislation, messages,  
24 petitions, memorials, and other matters relating to the  
25 following:

1           “(A) The Central Intelligence Agency and the  
2           Director of Central Intelligence.

3           “(B) Intelligence activities of all other departments  
4           and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other  
5           agencies of the Department of Defense; the Department  
6           of State; ~~the Department of Justice~~; and the Department  
7           of the ~~Treasury~~ *Treasury*; but not including the Department  
8           of ~~Justice~~ *Justice*.  
9  
10          

11          “(C) The organization or reorganization of any  
12          department or agency of the Government to the extent  
13          that the organization or reorganization relates to a function or activity involving intelligence activities.  
14

15          “(D) Authorizations for appropriations for the  
16          following:

17                 “(i) The Central Intelligence Agency.

18                 “(ii) The Defense Intelligence Agency.

19                 “(iii) The National Security Agency.

20                 “(iv) The intelligence activities of other agencies and subdivisions of the Department of Defense.  
21

22                 “(v) The intelligence activities of the Department of State.  
23

24                 ~~“(vi) The intelligence activities of the Federal~~

1            ~~Bureau of Investigation, including all activities of~~  
 2            ~~the Intelligence Division.~~

3            “~~(vii)~~ (vi) Any department, agency, or sub-  
 4            division which is the successor to any agency named  
 5            in item (i), (ii), or (iii); and the activities of any  
 6            department, agency, or subdivision which is the  
 7            successor to any department ~~or bureau~~ named in  
 8            item ~~(iv), (v), or (vi)~~ (iv) or (v) to the extent  
 9            that the activities of each successor department, ag-  
 10            ency, or subdivision are activities described in item  
 11            ~~(iv), (v), or (vi)~~ (iv) or (v).”

12            (b) Paragraph 3 of rule XXV of the Standing Rules  
 13            of the Senate is amended by inserting:

          “Intelligence Activities..... 11”

14            immediately below

          “District of Columbia..... 7”.

15            (c) (1) Subparagraph (d) of paragraph 1 of rule XXV  
 16            of the Standing Rules of the Senate is amended by insert-  
 17            ing “(except matters specified in subparagraph (s))” im-  
 18            mediately after the word “matters” in the language preced-  
 19            ing item 1.

20            (2) Subparagraph (i) of paragraph 1 of such rule is  
 21            amended by inserting “(except matters specified in sub-

1 paragraph (s))” immediately after the word “matters” in  
2 the language preceding item

3 (3) Subparagraph (j) (1) of paragraph 1 of such rule  
4 is amended by inserting “(except matters specified in sub-  
5 paragraph (s))” immediately after the word “matters” in  
6 the language preceding item (A).

7 ~~(4) Subparagraph (1) of paragraph 1 of such rule is~~  
8 ~~amended by inserting “(except matters specified in sub-~~  
9 ~~paragraph (s))” immediately after the word “matters” in~~  
10 ~~the language preceding item 1.~~

11 SEC. 4. (a) The Committee on Intelligence Activities  
12 of the Senate, for the purposes of accountability to the Sen-  
13 ate, shall make regular and periodic reports to the Senate on  
14 the nature and extent of the intelligence activities of the  
15 various departments and agencies of the United States. Such  
16 committee shall promptly call to the attention of the Senate  
17 or to any other appropriate committee or committees of the  
18 Senate any matters deemed by the Committee on Intelli-  
19 gence Activities to require the immediate attention of the  
20 Senate or such other committee or committees. In making  
21 such reports, the committee shall proceed in a manner con-  
22 sistent with paragraph 7 (c) (2) to protect national security.

23 (b) The Committee on Intelligence Activities of the  
24 Senate shall obtain an annual report from the Director of the  
25 Central Intelligence Agency, the Secretary of Defense, and

1 the Secretary of State, and the Director of the Federal Bureau  
2 of Investigation. Such report shall review the intelligence  
3 activities of the agency or department concerned and the in-  
4 telligence activities of foreign countries directed at the United  
5 States or its interests. Such report shall be unclassified and  
6 shall be made available to the public by the Committee on  
7 Intelligence Activities. Nothing herein shall be construed as  
8 requiring the disclosure in such reports of the names of indi-  
9 viduals engaged in intelligence activities for the United  
10 States or the sources of information on which such reports  
11 are based.

12 SEC. 5. (a) No person may be employed as a profes-  
13 sional staff member of the Committee on Intelligence Activi-  
14 ties of the Senate or be engaged by contract or otherwise to  
15 perform professional services for or at the request of such  
16 committee for a period totaling more than six years.

17 (b) No employee of such committee or any person en-  
18 gaged by contract or otherwise to perform services for or at  
19 the request of such committee shall be given access to any  
20 classified information by such committee unless such em-  
21 ployee or person has (1) agreed in writing to be bound by  
22 the rules of the Senate and of such committee as to the  
23 security of such information during and after the period of  
24 his employment or contractual agreement with such com-  
25 mittee; and (2) received an appropriate security clearance

1 as determined by such committee in consultation with the  
2 Director of Central Intelligence. The type of security clear-  
3 ance to be required in the case of any such employee or  
4 person shall, within the determination of such committee in  
5 consultation with the Director of Central Intelligence, be  
6 commensurate with the sensitivity of the classified informa-  
7 tion to which such employee or person will be given access  
8 by such committee.

9       SEC. 6. The Committee on Intelligence Activities of the  
10 Senate shall formulate and carry out such rules and pro-  
11 cedures as it deems necessary to prevent the disclosure,  
12 without the consent of the person or persons concerned, of  
13 information in the possession of such committee which  
14 unduly infringes upon the privacy or which violates the  
15 constitutional rights of such person or persons. Nothing here-  
16 in shall be construed to prevent such committee from publicly  
17 disclosing any such information in any case in which such  
18 committee determines the national interest in the disclosure  
19 of such information clearly outweighs any infringement on  
20 the privacy of any person or persons.

21       SEC. 7. (a) The Committee on Intelligence Activities of  
22 the Senate may, subject to the provisions of this section, dis-  
23 close publicly any information in the possession of such com-  
24 mittee after a determination by such committee that the  
25 public interest would be served by such disclosure. Whenever

## 9

1 committee action is required to disclose any information  
2 under this section, the committee shall meet to vote on the  
3 matter within five days after any member of the committee  
4 requests such a vote.

5 (b) (1) In any case in which the Committee on Intel-  
6 ligence Activities of the Senate votes to disclose publicly  
7 any information submitted to it by the executive branch  
8 which the executive branch requests be kept secret, such  
9 committee shall notify the President of such vote.

10 (2) The committee may disclose publicly such infor-  
11 mation after the expiration of a five-day period following  
12 the day on which notice of such vote is transmitted to the  
13 President, unless, prior to the expiration of such five-day  
14 period, the President notifies the committee that he objects  
15 to the disclosure of such information, provides his reasons  
16 therefor, and certifies that the threat to the national interest  
17 of the United States posed by such disclosure is vital and out-  
18 weighs any public interest in the disclosure.

19 (3) The Committee on Intelligence Activities may dis-  
20 close publicly such information at any time after the expira-  
21 tion of three days following the day on which it receives an  
22 objection from the President pursuant to paragraph (2),  
23 unless, prior to the expiration of such three days, three or  
24 more members of such committee file a request in writing

1 with the chairman of the committee that the question of  
2 public disclosure of such information be referred to the Senate  
3 for decision.

4 (4) In any case in which the Committee on Intelligence  
5 Activities votes not to disclose publicly any information sub-  
6 mitted to it by the executive branch which the executive  
7 branch requests be kept secret, such information shall not be  
8 publicly disclosed unless three or more members of such  
9 committee file, within three days after the vote of such com-  
10 mittee disapproving the public disclosure of such information,  
11 a request in writing with the chairman of such committee that  
12 the question of public disclosure of such information be  
13 referred to the Senate for decision, and public disclosure of  
14 such information is thereafter authorized as provided in  
15 paragraph (5) or (6).

16 (5) Whenever three or more members of the Com-  
17 mittee on Intelligence Activities file a request with the chair-  
18 man of such committee pursuant to paragraph (3) or (4);  
19 the chairman shall, not later than the first day on which the  
20 Senate is in session following the day on which the request is  
21 filed, report the matter to the Senate for its consideration.

22 (6) One hour after the Senate convenes on the first  
23 day on which the Senate is in session following the day on  
24 which any such matter is reported to the Senate, the Senate  
25 shall go into closed session and the matter shall be the pend-

1 ing business. In considering the matter in closed session the  
2 Senate may—

3 (A) approve the public disclosure of the informa-  
4 tion in question, in which case the committee shall pub-  
5 licly disclose such information.

6 (B) disapprove the public disclosure of the infor-  
7 mation in question, in which case the committee shall  
8 not publicly disclose such information, or

9 (C) refer the matter back to the committee, in  
10 which case the committee shall make the final determina-  
11 tion with respect to the public disclosure of the informa-  
12 tion in question.

13 Upon conclusion of the consideration of such matter in closed  
14 session, which may not extend beyond the close of the fifth  
15 day following the day on which such matter was reported  
16 to the Senate, the Senate shall immediately vote on the  
17 disposition of such matter in open session, without debate,  
18 and without divulging the information with respect to which  
19 the vote is being taken. The Senate shall vote to dispose  
20 of such matter by the means specified in clauses (A), (B),  
21 and (C) of the second sentence of this paragraph.

22 (c) (1) No classified information in the possession of  
23 the Committee on Intelligence Activities relating to the law-  
24 ful intelligence activities of any department or agency of the  
25 United States which the committee or the Senate, pursuant

1 to subsection (a) or (b) of this section, has determined  
2 should not be disclosed shall be made available to any per-  
3 son by a Member, officer, or employee of the Senate except  
4 in a closed session of the Senate or as provided in para-  
5 graph (2).

6 (2) The Committee on Intelligence Activities, or any  
7 member of such committee, may, under such regulations as  
8 the committee shall prescribe to protect the confidentiality  
9 of such information, make any information described in para-  
10 graph (1) available to any other committee or any other  
11 Member of the Senate. Whenever the Committee on Intelli-  
12 gence Activities, or any member of such committee, makes  
13 such information available, the committee shall keep a written  
14 record showing, in the case of any particular information,  
15 which committee or which Members of the Senate received  
16 such information. No Member of the Senate who, and no  
17 committee, which, receives any information under this sub-  
18 section, shall make the information available to any other  
19 person, except that a Senator may make such information  
20 available either in a closed session of the Senate, or to another  
21 Member of the Senate; however, a Senator who communi-  
22 cates such information to another Senator not a member of  
23 the committee shall promptly inform the Committee on Intel-  
24 ligence Activities.

1       (d) The Select Committee on Standards and Conduct  
2 may investigate any alleged disclosure of intelligence informa-  
3 tion by a Member, officer, or employee of the Senate in viola-  
4 tion of subsection (c). At the request of five of the members  
5 of the Committee on Intelligence Activities or sixteen Mem-  
6 bers of the Senate, the Select Committee on Standards and  
7 Conduct shall investigate any such alleged disclosure of  
8 intelligence information and report its findings and recom-  
9 mendations to the Senate.

10       (e) Upon the request of any person who is subject to  
11 any such investigation, the Select Committee on Standards  
12 and Conduct shall release to such individual at the con-  
13 clusion of its investigation a summary of its investigation  
14 together with its findings. If, at the conclusion of its investi-  
15 gation, the Select Committee on Standards and Conduct  
16 determines that there has been a significant breach of con-  
17 fidentiality or unauthorized disclosure by a Member, officer,  
18 or employee of the Senate, it shall report its findings to the  
19 Senate and recommend appropriate action such as censure,  
20 removal from committee membership, or expulsion from the  
21 Senate, in the case of Member, or removal from office or  
22 employment, in the case of an officer or employee.

23       Sec. 8. The Committee on Intelligence Activities of  
24 the Senate is authorized to permit any personal representa-

1 tive of the President, designated by the President to serve as  
2 a liaison to such committee, to attend any closed meeting of  
3 such committee.

4 SEC. 9. Upon expiration of the Select Committee on  
5 Governmental Operations With Respect to Intelligence Ac-  
6 tivities, established by S. Res. 21, Ninety-fourth Congress,  
7 all records, files, documents, and other materials in the pos-  
8 session, custody, or control of such committee, under appro-  
9 priate conditions established by it, shall be transferred to the  
10 Committee on Intelligence Activities.

11 SEC. 10. (a) It is the sense of the Senate that the  
12 head of each department and agency of the United States  
13 should keep the Committee on Intelligence Activities of the  
14 Senate fully and currently informed with respect to intelli-  
15 gence activities, including any significant anticipated activi-  
16 ties, which are the responsibility of or engaged in by such  
17 department or agency.

18 (b) It is the sense of the Senate that the head of any  
19 department or agency of the United States involved in any  
20 intelligence activities should furnish any information or  
21 document in the possession, custody, or control of the de-  
22 partment or agency, or witness in its employ, whenever re-  
23 quested by the Committee on Intelligence Activities of the  
24 Senate with respect to any matter within such committee's  
25 jurisdiction.

## 15

1           (c) It is the sense of the Senate that each department  
2 and agency of the United States should report immediately  
3 upon discovery to the Committee on Intelligence Activities  
4 of the Senate any and all intelligence activities which con-  
5 stitute violations of the constitutional rights of any person,  
6 violations of law, or violations of Executive orders, Pres-  
7 idential directives, or departmental or agency rules or regula-  
8 tions; each department and agency should further report to  
9 such committee what actions have been taken or are expected  
10 to be taken by the departments or agencies with respect to  
11 such violations.

12           SEC. 11. It shall not be in order in the Senate to con-  
13 sider any bill or resolution, or amendment thereto, or con-  
14 ference report thereon, which appropriates funds for any  
15 fiscal year beginning after September 30, 1976, to, or for  
16 the use of, any department or agency of the United States  
17 to carry out any of the following activities, unless such funds  
18 have been previously authorized by law to carry out such  
19 activity for such fiscal year—

20           (1) The activities of the Central Intelligence  
21 Agency.

22           (2) The activities of the Defense Intelligence  
23 Agency.

24           (3) The activities of the National Security Agency.

1           (4) The intelligence activities of other agencies  
2           and subdivisions of the Department of Defense.

3           (5) The intelligence activities of the Department  
4           of State.

5           ~~(6) The intelligence activities of the Federal Bureau~~  
6           ~~of Investigation, including all activities of the Intelli-~~  
7           ~~gence Division.~~

8           SEC. 12. (a) The Committee on Intelligence Activities  
9           shall make a study with respect to the following matters,  
10           taking into consideration with respect to each such matter,  
11           all relevant aspects of the effectiveness of planning, gathering,  
12           use, security, and dissemination of intelligence—

13           (1) the quality of the analytical capabilities of  
14           United States foreign intelligence agencies and means  
15           for integrating more closely analytical intelligence and  
16           policy formulation;

17           (2) the extent and nature of the authority of the  
18           departments and agencies of the executive branch to  
19           engage in intelligence activities and the desirability of  
20           developing charters for each intelligence agency or  
21           department;

22           (3) the organization of intelligence activities in  
23           the executive branch to maximize the effectiveness of  
24           the conduct, oversight, and accountability of intelligence  
25           activities; to reduce duplication or overlap; and to im-

1 prove the morale of the personnel of the foreign intelli-  
2 gence agencies;

3 (4) the conduct of covert and clandestine activities  
4 and the procedures by which Congress is informed of  
5 such activities;

6 (5) the desirability of changing any law, Senate  
7 rule or procedure, or any Executive order, rule, or regu-  
8 lation to improve the protection of intelligence secrets  
9 and provide for disclosure of information for which there  
10 is no compelling reason for secrecy;

11 (6) the desirability of establishing a joint commit-  
12 tee of the Senate and the House of Representatives on  
13 intelligence activities in lieu of having separate com-  
14 mittees in each House of Congress, or of establishing  
15 procedures under which separate committees on intelli-  
16 gence activities of the two Houses of Congress would  
17 receive joint briefings from the intelligence agencies and  
18 coordinate their policies with respect to the safeguarding  
19 of sensitive intelligence information;

20 (7) the authorization of funds for the intelligence  
21 activities of the government and whether disclosure of  
22 any of the amounts of such funds is in the public interest;  
23 and

24 (8) the development of a uniform set of definitions  
25 for terms to be used in policies or guidelines which may

1 be adopted by the executive or legislative branches  
2 to govern, clarify, and strengthen the operation of in-  
3 telligence activities.

4 (b) The Committee on Intelligence Activities of the  
5 Senate shall report the results of the study provided for  
6 under subsection (a) to the Senate, together with any  
7 recommendations for legislative or other actions it deems  
8 appropriate, no later than July 1, 1977, and from time to  
9 time thereafter as it deems appropriate.

10 SEC. 13. (a) As used in this resolution, the term "intel-  
11 ligence activities" includes (1) the collection, analysis, pro-  
12 duction, dissemination, or use of information which relates  
13 to any foreign country, or any government, political group,  
14 party, military force, movement, or other association in such  
15 foreign country, and which relates to the defense, foreign  
16 policy, national security, or related policies of the United  
17 States, and other activity which is in support of such activ-  
18 ities; (2) activities taken to counter similar activities directed  
19 against the United States; (3) covert or clandestine activ-  
20 ities affecting the relations of the United States with any  
21 foreign government, political group, party, military force,  
22 movement or other association; (4) the collection, analysis,  
23 production, dissemination, or use of information about activ-  
24 ities of persons within the United States, its territories and  
25 possessions, or nationals of the United States abroad whose

## 19

1 political and related activities pose, or may be considered by  
2 any department, agency, bureau, office, division, instrumen-  
3 tality, or employee of the United States to pose, a threat to  
4 the internal security of the United States, and covert or  
5 clandestine activities directed against such persons. Such  
6 term does not include tactical foreign military intelligence  
7 serving no national policymaking function.

8 (b) As used in this resolution, the term "department or  
9 agency" includes any organization, committee, council, estab-  
10 lishment, or office within the Federal Government.

11 (c) For purposes of this resolution, reference to any  
12 department, agency, bureau, or subdivision shall include a  
13 reference to any successor department, agency, bureau, or  
14 subdivision to the extent that such successor engages in  
15 intelligence activities now conducted by the department,  
16 agency, bureau, or subdivision referred to in this resolution.

17 §  
18 SEC. 14. Nothing in this resolution shall be construed  
19 as constituting acquiescence by the Senate in any practice, or  
20 in the conduct of any activity, not otherwise authorized by  
law.

## EXHIBIT 2

### EXPLANATION OF SENATE RESOLUTION 400 <sup>1</sup>

A section-by-section explanation of Senate Resolution 400 as reported by the Committee on Government Operations and referred to the Committees on Rules and Administration and the Judiciary is as follows:

#### PURPOSE (SEC. 1)

Senate Resolution 400 would establish a new standing committee of the Senate, to be known as the Committee on Intelligence Activities, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation concerning such intelligence activities and programs. In carrying out this purpose, the Committee on Intelligence Activities would make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It would further be the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

#### MEMBERSHIP (SEC. 2)

The proposed standing Committee on Intelligence Activities would consist of eleven members, six from the majority party of the Senate and five from the minority party.

*Period of service.*—No Senator could serve on the Committee on Intelligence Activities for more than six years of continuous service, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, at least three but not more than four Members of the Senate appointed to the Committee on Intelligence Activities at the beginning of the Ninety-sixth Congress and each Congress thereafter would be Members of the Senate who did not serve on such committee during the preceding Congress.

*Chairman and Vice Chairman.*—At the beginning of each Congress, the majority members of the Committee on Intelligence Activities would select its chairman, and the minority members would select its vice chairman. The vice chairman would act in the place and stead of the chairman in his absence. Neither the chairman nor the vice chairman

<sup>1</sup> For a more detailed analysis of Senate Resolution 400 and an explanation of the rationale for its various provisions, see Senate Report 94-675, the report of the Committee on Government Operations to accompany the measure.

could at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 6(f) of rule XXV of the Standing Rules of the Senate.

#### JURISDICTION (SEC. 3)

The jurisdiction of the Committee on Intelligence Activities, which would be expressed in a new subparagraph (s) added to paragraph 1 of rule XXV of the Standing Rules of the Senate; would be as follows:

(s) Committee on Intelligence Activities, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(A) The Central Intelligence Agency and the Director of Central Intelligence.

(B) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(C) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(D) Authorizations for appropriations for the following:

(i) The Central Intelligence Agency.

(ii) The Defense Intelligence Agency.

(iii) The National Security Agency.

(iv) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(v) The intelligence activities of the Department of State.

(vi) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(vii) Any department, agency, or subdivision which is the successor to any agency named in item (i), (ii), or (iii); and the activities of any department, agency, or subdivision which is the successor to any department or bureau named in item (iv), (v), or (vi) to the extent that the activities of such successor department, agency, or subdivision are activities described in item (iv), (v), or (vi).

#### *Modification of jurisdictions of other standing committees*

As a result of the above-stated jurisdiction which would be granted by Senate Resolution 400 to a new standing Committee on Intelligence Activities, the jurisdictions of four existing standing committees would be accordingly modified or qualified. In each such instance, the opening subparagraph—

Committee on \* \* \*, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

would be amended by the insertion after the word "matters" of the parenthetical clause "(except matters specified in subparagraph (s))",

subparagraph (s) being the proposed jurisdiction for the new Intelligence Committee.

Present standing committees whose jurisdictions would be so modified are the following: Armed Services, Foreign Relations, Government Operations, and Judiciary.

#### COMMITTEE REPORTS (SEC. 4)

The Committee on Intelligence Activities of the Senate, for the purposes of accountability to the Senate, would be required to make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. The committee would promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters it felt should have the immediate attention of the Senate or such other committee or committees. In making its reports, the committee would proceed in a manner consistent with the protection of national security.

*Reports to committee from intelligence agencies.*—The Committee on Intelligence Activities of the Senate would obtain annual reports from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports would review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interests. These reports would be unclassified and would be made available to the public by the Committee. In such reports neither the names of individuals engaged in intelligence activities for the United States nor the sources of information on which such reports are based, would be disclosed.

#### COMMITTEE STAFF (SEC. 5)

*Limitation on service.*—No person could be employed as a professional staff member of the Committee on Intelligence Activities of the Senate or be engaged by contract or otherwise to perform professional services for or at the request of such committee for a period totaling more than six years.

*Security clearance.*—No employee of the committee or any person engaged by contract or otherwise to perform services for or at the request of the committee would be given access to any classified information by the committee unless such employee or person has (1) agreed in writing to be bound by the rules of the Senate and of the committee as to the security of such information during and after the period of his employment or contractual agreement; and (2) received an appropriate security clearance as determined by the committee in consultation with the Director of Central Intelligence. The type of security clearance which would be required in the case of any such employee or person would, within the determination of the committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person would be given access by the committee.

## PROTECTION OF INDIVIDUAL PRIVACY (SEC. 6)

The Committee on Intelligence Activities would formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure without the consent of the person or persons concerned, of information in its possession which would unduly infringe upon the privacy or which would violate the constitutional rights of such person or persons. However, the Committee would not be precluded from publicly disclosing any such information in any case in which it determines the national interest clearly outweighs any infringement on the privacy of any person or persons.

## DISCLOSURE OF INFORMATION (SEC. 7)

*Authority for disclosure.*—Subject to the other provisions under this section, the Committee on Intelligence Activities would be authorized to disclose publicly any information in its possession after a determination by the committee that the public interest would be served by such disclosure. Whenever committee action would be required to disclose any information, the committee would be required to meet to vote on the matter within five days after any member of the committee requested such a vote.

*Notification of President.*—In any case in which the Committee votes to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, the committee would be required to notify the President of such vote.

*Five-day grace period.*—The committee would be authorized to disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure would be vital and outweigh any public interest in the disclosure.

*Procedure in Committee after objection by the President*

The Committee on Intelligence Activities would be authorized to disclose publicly such information at any time after the expiration of three days following the day on which it receives an objection from the President to such disclosure, unless, prior to the expiration of that period, three or more members of the committee file a request in writing with the chairman of the committee that the question of public disclosure of such information be referred to the Senate for decision.

In any case in which the Committee votes not to disclose publicly any information submitted to it by the executive branch which the executive branch requests be kept secret, such information would not be publicly disclosed unless three or more members of the committee file, within three days after the disapproving vote, a request in writing with the chairman of the committee that the question of public disclosure of such information be referred to the Senate for decision, and public disclosure of such information is thereafter authorized by the Senate itself, as set forth below.

Whenever three or more members of the Committee file a request with the chairman for Senate consideration of the question, the chairman would be required, not later than the first day on which the Senate is in session following the day on which the request is filed, to report the matter to the Senate for its consideration.

*Procedure in Senate on objection by the President to disclosure*

One hour after the Senate convenes on the first day on which the Senate is in session following the day on which any such matter is reported to the Senate, the Senate would go into closed session and the matter would be the pending business. In considering the matter in closed session the Senate could (1) approve the public disclosure of the information in question, in which case the committee would publicly disclose such information; (2) disapprove the public disclosure of the information in question, in which case the committee would not publicly disclose such information; or (3) refer the matter back to the committee, in which case the committee would make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which could not extend beyond the close of the fifth day following the day on which such matter was reported to the Senate, the Senate would immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate would vote to dispose of such matter by one of the three means specified above.

*Authorized disclosure of classified information*

No classified information in the possession of the Committee on Intelligence Activities relating to the lawful intelligence activities of any department or agency of the United States which the Committee or the Senate has determined should not be disclosed could be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in the following paragraph:

The Committee on Intelligence Activities, or any member of the committee, could, under such regulations as the committee would prescribe to protect the confidentiality of such information, make any such classified information available to any other committee or any other Member of the Senate. Whenever the committee, or any member thereof, makes such information available, the committee would keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee, which, may receive any information under this subsection, could make the information available to any other person, except that a Senator could make such information available either in a closed session of the Senate, or to another Member of the Senate; however, a Senator who communicates such information to another Senator not a member of the committee would be required to promptly inform the Committee on Intelligence Activities, of such communication.

*Investigation by the Select Committee on Standards and Conduct of alleged unauthorized disclosure*

The Select Committee on Standards and Conduct would be authorized to investigate any alleged disclosure of intelligence information by a Member, officer, or employee of the Senate in violation of the above provisions. At the request of five members of the Committee on Intelligence Activities or sixteen Members of the Senate, the Select Committee on Standards and Conduct would investigate any such alleged disclosure of intelligence information and report its findings and recommendations to the Senate.

Upon the request of any person who may be subject to any such investigation, the Select Committee on Standards and Conduct would release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment, in the case of an officer or employee.

**PRESIDENT'S REPRESENTATIVE COULD ATTEND CLOSED SESSIONS OF INTELLIGENCE COMMITTEE (SEC. 8)**

The Committee on Intelligence Activities would be authorized to permit any personal representative of the President, designated by the President to serve as a liason to such committee, to attend any closed meeting of the committee.

**TRANSFER OF THE RECORDS OF THE SELECT COMMITTEE TO THE STANDING COMMITTEE ON INTELLIGENCE ACTIVITIES (SEC. 9)**

Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by S. Res. 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, would be transferred to the Committee on Intelligence Activities.

**COMMITTEE ACCESS TO EXECUTIVE BRANCH INFORMATION (SEC. 10)**

Senate Resolution 400 would express the sense of the Senate that the head of each department and agency of the United States should keep the Committee on Intelligence Activities of the Senate fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency. The head of any department or agency of the United States involved in any intelligence activities would be expected to furnish any information or document in its possession, custody, or control, or witness in its employ, whenever requested by the committee with respect to any matter within its

jurisdiction. Also, it would be the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the Committee on Intelligence Activities any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, Presidential directives, or departmental or agency rules or regulations. Each department and agency would be expected to further report to the committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

AUTHORIZATION FOR APPROPRIATIONS FOR INTELLIGENCE AGENCIES  
(SEC. 11)

It would not be in order in the Senate to consider any bill or resolution, or amendment thereto, or conference report thereon, which appropriates funds for any fiscal year beginning after September 30, 1976, to, or for the use of, any department or agency of the United States to carry out any of the following activities, unless such funds have been previously authorized by law to carry out such activity for such fiscal year for—

- (1) The activities of the Central Intelligence Agency;
- (2) The activities of the Defense Intelligence Agency;
- (3) The activities of the National Security Agency;
- (4) The intelligence activities of other agencies and subdivisions of the Department of Defense;
- (5) The intelligence activities of the Department of State; and
- (6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

STUDIES BY THE COMMITTEE ON INTELLIGENCE ACTIVITIES (SEC. 12)

The Committee on Intelligence Activities would be directed to make a study with respect to the matters listed below, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence. It would report the results of such study to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deemed appropriate. A listing of the matters to be studied by the Committee is as follows:

- (1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;
- (2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;
- (3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(7) the authorization of funds for the intelligence activities of the government and whether disclosure of any of the amounts of such funds is in the public interest; and

(8) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

#### DEFINITION OF TERMS (SEC. 13)

*Intelligence activities.*—As used in Senate Resolution 400, the term “intelligence activities” would include (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement, or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term would not include tactical foreign military intelligence serving no national policymaking function.

*Department or agency.*—As used in the resolution, the term “department or agency” would include any organization, committee, council, establishment, or office within the Federal Government.

*Department, Agency, Bureau, Subdivision.*—For purposes of the resolution, reference to any department, agency, bureau, or subdivision would include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in similar intelligence activities.

## DISCLAIMER (SEC. 14)

The final section of Senate Resolution 400 states that nothing in the resolution is intended to imply approval by the Senate in any activity or practice not otherwise authorized by law. This section is intended to make it clear that by assigning the new committee jurisdiction over a particular activity, such as covert or clandestine activities, or the domestic intelligence activities of the Federal Bureau of Investigation, the Senate does not thereby intend to express any view as to the legality of such activity. Such reference is also not meant to imply acquiescence in the legality of any practices an agency now follows.

EXHIBIT 3

TEXT OF SENATE RESOLUTION 400 AS AMENDED BY THE COMMITTEE  
ON RULES AND ADMINISTRATION PRIOR TO ITS ADOPTION OF AN  
AMENDMENT IN THE NATURE OF A SUBSTITUTE

**[COMMITTEE PRINT]**

APRIL 30, 1976

[As Amended by the Committee on Rules and Administration Prior to Its  
Adoption of an Amendment in the Nature of a Substitute]

94TH CONGRESS  
2D SESSION

**S. RES. 400**

[Report No. 94-770]

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IN THE SENATE OF THE UNITED STATES

MARCH 1, 1976

Mr. MANSFIELD (for Mr. RIBICOFF) (for himself, Mr. CHURCH, Mr. PERCY, Mr. BAKER, Mr. BROCK, Mr. CHILES, Mr. GLENN, Mr. HUDDLESTON, Mr. JACKSON, Mr. JAVITS, Mr. MATHIAS, Mr. METCALF, Mr. MONDALE, Mr. MORGAN, Mr. MUSKIE, Mr. NUNN, Mr. ROTH, Mr. SCHWEIKER, and Mr. WEICKER) submitted the following resolution; which was referred to the Committee on Government Operations

MARCH 1, 1976

Reported by Mr. MANSFIELD (for Mr. RIBICOFF), without amendment

MARCH 1, 1976

Referred to the Committee on Rules and Administration for a period extending no later than March 20, 1976

MARCH 18, 1976

Reported by Mr. MANSFIELD (for Mr. CANNON), without amendment

MARCH 18, 1976

Referred simultaneously to the Committee on the Judiciary and the Committee on Rules and Administration with instructions that the Committee on the Judiciary make its recommendations to the Committee on Rules and Administration no later than March 29, 1976, and that the Committee on Rules and Administration files the report no later than April 5, 1976

[Omit the part struck through and insert the part printed in italic]

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**RESOLUTION**

To establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

- 1       *Resolved*, That it is the purpose of this resolution to  
2 establish a new ~~standing~~ *select* committee of the Senate, to

1 be known as the *Select Committee on Intelligence Activities*,  
2 to oversee and make continuing studies of the intelligence  
3 activities and programs of the United States Government, and  
4 to submit to the Senate appropriate proposals for legislation  
5 report to the Senate concerning such intelligence activities  
6 and programs. In carrying out this purpose, the *Select Com-*  
7 *mittee on Intelligence Activities* shall make every effort to  
8 assure that the appropriate departments and agencies of the  
9 United States provide informed and timely intelligence neces-  
10 sary for the executive and legislative branches to make sound  
11 decisions affecting the security and vital interests of the  
12 Nation. It is further the purpose of this resolution to provide  
13 vigilant legislative oversight over the intelligence activities  
14 of the United States to assure that such activities are in con-  
15 formity with the Constitution and laws of the United States.

16 ~~SEC. 2: Rule XXIV of the Standing Rules of the Senate~~  
17 ~~is amended by adding at the end thereof a new paragraph~~  
18 ~~as follows:~~

19 ~~“3. (a) Six members of the Committee on Intelligence~~  
20 ~~Activities shall be from the majority party of the Senate and~~  
21 ~~five members shall be from the minority party of the Senate.~~

22 *SEC. 2. (a) (1) There is hereby established a select com-*  
23 *mittee to be known as the Select Committee on Intelligence*  
24 *Activities (hereinafter in this resolution referred to as the*

1 “select committee”). The select committee shall be composed  
2 of eleven members appointed as follows:

3 (A) two members from the Committee on Appro-  
4 priations;

5 (B) two members from the Committee on Armed  
6 Services;

7 (C) two members from the Committee on Foreign  
8 Relations;

9 (D) two members from the Committee on the Judi-  
10 ciary; and

11 (E) three members from the Senate who are not  
12 members of any of the committees named in clauses (A)  
13 through (D).

14 (2) Members appointed from each committee named in  
15 clauses (A) through (D) of paragraph (1) shall be ap-  
16 pointed by the chairman of each such committee, one mem-  
17 ber to be appointed from the majority party of the Senate  
18 and one member to be appointed from the minority party of  
19 the Senate upon the recommendation of the ranking minority  
20 member of such committee. Two of the members appointed  
21 under clause (E) of paragraph (1) shall be appointed by  
22 the President pro tempore of the Senate upon the recom-  
23 mendation of the majority leader of the Senate and one shall  
24 be appointed by the President pro tempore of the Senate

1 upon the recommendation of the minority leader of the  
2 Senate.

3 (3) The majority leader of the Senate and the minority  
4 leader of the Senate shall be *ex officio* members of the select  
5 committee but shall have no vote in the committee and shall  
6 not be counted for purposes of determining a quorum.

7 “(b) No Senator may serve on the ~~Committee on In-~~  
8 ~~telligence Activities~~ select committee for more than six years  
9 of continuous service, exclusive of service by any Senator on  
10 such committee during the Ninety-fourth Congress. To the  
11 greatest extent practicable, at least three but not more than  
12 four Members of the Senate appointed to the ~~Committee on~~  
13 ~~Intelligence Activities~~ select committee at the beginning of  
14 the Ninety-sixth Congress and each Congress thereafter  
15 shall be Members of the Senate who did not serve on such  
16 committee during the preceding Congress.

17 “(c) At the beginning of each Congress, the members  
18 of the ~~Committee on Intelligence Activities~~ Senate who are  
19 members of the majority party of the Senate shall select a  
20 chairman for the select committee, and the members of ~~such~~  
21 ~~committee~~ the Senate who are from the minority party of  
22 the Senate shall elect a vice chairman for such committee.  
23 The vice chairman shall act in the place and stead of the  
24 chairman in the absence of the chairman. Neither the chair-  
25 man nor the vice chairman of the ~~Committee on Intelligence~~

1 ~~Activities select committee~~ shall at the same time serve as  
2 chairman or ranking minority member of any other commit-  
3 tee referred to in paragraph 6 (f) of rule XXV of the Stand-  
4 ing Rules of the Senate.”

5 (d) *For the purposes of paragraph 6(a) of rule XXV*  
6 *of the Standing Rules of the Senate, service of a Senator as a*  
7 *member of the select committee shall not be taken into account.*

8 SEC. 3. (a) ~~Paragraph 1 of rule XXV of the Standing~~  
9 ~~Rules of the Senate is amended by adding at the end thereof~~  
10 ~~the following new subparagraph:~~

11 ~~“(s) Committee on Intelligence Activities, to which~~  
12 ~~committee shall be referred There shall be referred to the~~  
13 ~~select committee~~ all proposed legislation, messages, petitions,  
14 memorials, and other matters relating to the following:

15 ~~“(A) (1) The Central Intelligence Agency and~~  
16 ~~the Director of Central Intelligence.~~

17 ~~“(B) (2) Intelligence activities of all other depart-~~  
18 ~~ments and agencies of the Government, including, but~~  
19 ~~not limited to, the intelligence activities of the Defense~~  
20 ~~Intelligence Agency, the National Security Agency, and~~  
21 ~~other agencies of the Department of Defense; the De-~~  
22 ~~partment of State; the Department of Justice; and the~~  
23 ~~Department of the Treasury.~~

24 ~~“(C) (3) The organization or reorganization of~~  
25 ~~any department or agency of the Government to the~~

1 extent that the organization or reorganization relates to  
2 a function or activity involving intelligence activities.

3 ~~“(D) (4)~~ Authorizations for appropriations for the  
4 following:

5 ~~“(i) (A)~~ The Central Intelligence Agency.

6 ~~“(ii) (B)~~ The Defense Intelligence Agency.

7 ~~“(iii) (C)~~ The National Security Agency.

8 ~~“(iv) (D)~~ The intelligence activities of other  
9 agencies and subdivisions of the Department of  
10 Defense.

11 ~~“(v) (E)~~ The intelligence activities of the  
12 Department of State.

13 ~~“(vi) (F)~~ The intelligence activities of the  
14 Federal Bureau of Investigation, including all activi-  
15 ties of the Intelligence Division.

16 ~~“(vii) (G)~~ Any department, agency, or sub-  
17 division which is the successor to any agency named  
18 in ~~item (i), (ii), or (iii) clause (A), (B), or (C)~~;  
19 and the activities of any department, agency, or sub-  
20 division which is the successor to any department  
21 or bureau named in ~~item (iv), (v), or (vi) clause~~  
22 ~~(D), (E), or (F)~~ to the extent that the activities  
23 of such successor department, agency, or subdivision  
24 are activities described in ~~item (iv), (v), or (vi).~~  
25 ~~clause (D), (E), or (F).~~

1       (b) Paragraph 3 of rule XXV of the Standing Rules  
2 of the Senate is amended by inserting:

“Intelligence Activities..... 11”

3 immediately below

“District of Columbia..... 7”

4       (c) (1) Subparagraph (d) of paragraph 1 of rule XXV  
5 of the Standing Rules of the Senate is amended by inserting  
6 “(except matters specified in subparagraph (s))” immedi-  
7 ately after the word “matters” in the language preceding  
8 item 1.

9       (2) Subparagraph (i) of paragraph 1 of such rule is  
10 amended by inserting “(except matters specified in subpara-  
11 graph (s))” immediately after the word “matters” in the  
12 language preceding item 1.

13       (3) Subparagraph (j) (1) of paragraph 1 of such rule  
14 is amended by inserting “(except matters specified in sub-  
15 paragraph (s))” immediately after the word “matters” in  
16 the language preceding item (A).

17       (4) Subparagraph (l) of paragraph 1 of such rule is  
18 amended by inserting “(except matters specified in subpara-  
19 graph (s))” immediately after the word “matters” in the  
20 language preceding item 1.

21       (b) Any proposed legislation reported by the select com-  
22 mittee containing any matter otherwise within the jurisdiction  
23 of any standing committee, as amended by subsection (a)  
24 of this section, shall, at request of the chairman of

1 *such standing committee, be referred to such standing com-*  
2 *mittee for its consideration of such matter and be reported to*  
3 *the Senate by such standing committee within 30 days after*  
4 *the day on which such proposed legislation is referred to such*  
5 *standing committee; and any proposed legislation reported by*  
6 *any committee, other than the select committee, which contains*  
7 *any matter within the jurisdiction of the select committee shall,*  
8 *at the request of the chairman of the select committee, be re-*  
9 *ferred to the select committee for its consideration of such*  
10 *matter and be reported to the Senate by the select committee*  
11 *within 30 days after the day on which such proposed legisla-*  
12 *tion is referred to such committee. In any case in which a*  
13 *committee fails to report any proposed legislation referred to*  
14 *it within the time limit prescribed herein, such committee shall*  
15 *be automatically discharged from further consideration of*  
16 *such proposed legislation on the thirtieth day following the*  
17 *day on which such proposed legislation is referred to such*  
18 *committee unless the Senate provides otherwise. In computing*  
19 *any 30-day period under this paragraph there shall be ex-*  
20 *cluded from such computation any days on which the Senate*  
21 *is not in session.*

22 *(c) Nothing in this resolution shall be construed as pro-*  
23 *hibiting or otherwise restricting the authority of any other*  
24 *committee to study and review any intelligence activity to the*

1 *extent that such activity directly affects a matter otherwise*  
2 *within the jurisdiction of such committee.*

3 *(d) Nothing in this resolution shall be construed as*  
4 *amending, limiting, or otherwise changing the authority of*  
5 *any standing committee of the Senate to obtain full and*  
6 *prompt access to the product of the intelligence agencies rele-*  
7 *vant to a matter otherwise within the jurisdiction of such*  
8 *committee.*

9 SEC. 4. (a) ~~The Committee on Intelligence Activities~~  
10 ~~of the Senate select committee~~, for the purposes of account-  
11 ability to the Senate, shall make regular and periodic re-  
12 ports to the Senate on the nature and extent of the intelli-  
13 gence activities of the various departments and agencies  
14 of the United States. Such committee shall promptly call  
15 to the attention of the Senate or to any other appropriate  
16 committee or committees of the Senate any matters deemed  
17 by the ~~Committee on Intelligence Activities select commit-~~  
18 ~~tee~~ to require the immediate attention of the Senate or such  
19 other committee or committees. In making such reports,  
20 the *select committee* shall proceed in a manner consistent  
21 with ~~paragraph 7 section 8(c)(2)~~ to protect national  
22 security.

23 (b) ~~The Committee on Intelligence Activities of the~~  
24 ~~Senate select committee~~ shall obtain an annual report from  
25 the Director of the Central Intelligence Agency, the Secre-

1 tary of Defense, the Secretary of State, and the Director  
2 of the Federal Bureau of Investigation. Such report shall re-  
3 view the intelligence activities of the agency or department  
4 concerned and the intelligence activities of foreign countries  
5 directed at the United States or its interests. Such report  
6 shall be unclassified and shall be made available to the public  
7 by the ~~Committee on Intelligence Activities~~ *select committee*.  
8 Nothing herein shall be construed as requiring the disclosure  
9 in such reports of the names of individuals engaged in in-  
10 telligence activities for the United States or the sources of  
11 information on which such reports are based.

12       *SEC. 5. (a) For the purposes of this resolution, the select*  
13 *committee is authorized in its discretion (1) to make expendi-*  
14 *tures from the contingent fund of the Senate, (2) to employ*  
15 *personnel, (3) to hold hearings, (4) to sit and act at any*  
16 *time or place during the sessions, recesses, and adjourned*  
17 *periods of the Senate, (5) to require, by subpoena or other-*  
18 *wise, the attendance of witnesses and the production of cor-*  
19 *respondence, books, papers, and documents, (6) to take dep-*  
20 *ositions and other testimony, (7) to procure the service of*  
21 *individual consultants or organizations thereof, in accord-*  
22 *ance with the provisions of section 202(i) of the Legislative*  
23 *Reorganization Act of 1946, as amended, and (8) with the*  
24 *prior consent of the Government department or agency con-*  
25 *cerned and the Committee on Rules and Administration, to*

1 use on a reimbursable basis the services of personnel of any  
2 such department or agency.

3 (b) The chairman of the select committee or any mem-  
4 ber thereof may administer oaths to witnesses.

5 (c) Subpenas authorized by the select committee may be  
6 issued over the signature of the chairman or any member of  
7 the select committee designated by him, and may be served by  
8 any person designated by the chairman or member signing  
9 the subpoena.

10 ~~SEC. 5. (a) No person may be employed as a profes-~~  
11 ~~sional staff member of the Committee on Intelligence Activi-~~  
12 ~~ties of the Senate or be engaged by contract or otherwise to~~  
13 ~~perform professional services for or at the request of such~~  
14 ~~committee for a period totaling more than six years.~~

15 ~~(b) SEC. 6. No employee of such the select committee~~  
16 ~~or any person engaged by contract or otherwise to perform~~  
17 ~~services for or at the request of such committee shall be~~  
18 ~~given access to any classified information by such committee~~  
19 ~~unless such employee or person has (1) agreed in writing~~  
20 ~~and under oath to be bound by the rules of the Senate~~  
21 ~~(including the jurisdiction of the Select Committee on Stand-~~  
22 ~~ards and Conduct) and of such committee as to the security~~  
23 ~~of such information during and after the period of his em-~~  
24 ~~ployment or contractual agreement with such committee;~~  
25 ~~and (2) received an appropriate security clearance as de-~~

1 terminated by such committee in consultation with the Direc-  
2 tor of Central Intelligence. The type of security clearance  
3 to be required in the case of any such employee or person  
4 shall, within the determination of such committee in con-  
5 sultation with the Director of Central Intelligence, be com-  
6 mensurate with the sensitivity of the classified information  
7 to which such employee or person will be given access by  
8 such committee.

9 ~~SEC. 6. The Committee on Intelligence Activities of the~~  
10 ~~Senate~~ SEC. 7. *The select committee* shall formulate and carry  
11 out such rules and procedures as it deems necessary to pre-  
12 vent the disclosure, without the consent of the person or per-  
13 sons concerned, of information in the possession of such  
14 committee which unduly infringes upon the privacy or which  
15 violates the constitutional rights of such person or persons.  
16 Nothing herein shall be construed to prevent such committee  
17 from publicly disclosing any such information in any case in  
18 which such committee determines the national interest in  
19 the disclosure of such information clearly outweighs any  
20 infringement on the privacy of any person or persons.

21 ~~SEC. 7. (a) The Committee on Intelligence Activities of~~  
22 ~~the Senate~~ SEC. 8. (a) *The select committee* may, subject to  
23 the provisions of this section, disclose publicly any informa-  
24 tion in the possession of such committee after a determina-  
25 tion by such committee that the public interest would be

1 served by such disclosure. Whenever committee action is  
2 required to disclose any information under this section, the  
3 committee shall meet to vote on the matter within five days  
4 after any member of the committee requests such a vote.

5 (b) (1) In any case in which the ~~Committee on Intel-~~  
6 ~~ligence Activities of the Senate select committee~~ votes to dis-  
7 close publicly any information *which has been classified*  
8 *under established security procedures, which has been sub-*  
9 *mitted to it by the executive branch, and which the execu-*  
10 *tive branch requests be kept secret, such committee shall*  
11 *notify the President of such vote.*

12 (2) The *select committee* may disclose publicly such  
13 information after the expiration of a five-day period follow-  
14 ing the day on which notice of such vote *to disclose* is trans-  
15 mitted to the President, unless, prior to the expiration of  
16 such five-day period, the President notifies the committee  
17 that he objects to the disclosure of such information, provides  
18 his reasons therefor, and certifies that the threat to the na-  
19 tional interest of the United States posed by such disclosure  
20 is vital and outweighs any public interest in the disclosure.

21 ~~(3) The Committee on Intelligence Activities may dis-~~  
22 ~~close publicly such information at any time after the expira-~~  
23 ~~tion of three days following the day on which it receives an~~  
24 ~~objection from the President pursuant to paragraph (2);~~  
25 ~~unless, prior to the expiration of such three days, three or~~

1 more members of such committee file a request in writing  
2 with the chairman of the committee that the question of  
3 public disclosure of such information be referred to the Sen-  
4 ate for decision.—

5 (4) In any case in which the Committee on Intelligence  
6 Activities votes not to disclose publicly any information sub-  
7 mitted to it by the executive branch which the executive  
8 branch requests be kept secret, such information shall not be  
9 publicly disclosed unless three or more members of such  
10 committee file, within three days after the vote of such com-  
11 mittee disapproving the public disclosure of such information,  
12 a request in writing with the chairman of such committee that  
13 the question of public disclosure of such information be  
14 referred to the Senate for decision, and public disclosure of  
15 such information is thereafter authorized as provided in  
16 paragraph (5) or (6).

17 (5) Whenever three or more members of the Commit-  
18 tee on Intelligence Activities file a request with the chair-  
19 man of such committee pursuant to paragraph (3) or (4),  
20 the chairman shall, not later than the first day on which the  
21 Senate is in session following the day on which the request is  
22 filed, report the matter to the Senate for its consideration.

23 (3) If the President notifies the select committee of his  
24 objections to the disclosure of such information as provided  
25 in paragraph (2), such committee may, by majority vote,

1 refer the question of the disclosure of such information to the  
 2 Senate for consideration. Such information shall not there-  
 3 after be publicly disclosed without leave of the Senate.

4 (4) Whenever the select committee votes to refer the  
 5 question of disclosure of any information to the Senate under  
 6 paragraph (3), the chairman shall, not later than the first  
 7 day on which the Senate is in session following the day on  
 8 which the vote occurs, report the matter to the Senate for its  
 9 consideration.

10 ~~(6)~~(5) One hour after the Senate convenes on the ~~first~~  
 11 fourth day on which the Senate is in session following the  
 12 day on which any such matter is reported to the Senate, or  
 13 at such earlier time as the majority leader and the minority  
 14 leader of the Senate jointly agree upon in accordance with  
 15 section 133(f) of the Legislative Reorganization Act of 1946,  
 16 the Senate shall go into closed session and the matter shall  
 17 be the pending business. In considering the matter in closed  
 18 session the Senate may—

19 (A) approve the public disclosure of *all or any*  
 20 *portion of* the information in question, in which case  
 21 the committee shall publicly disclose ~~such information.~~  
 22 *the information ordered to be disclosed,*

23 (B) disapprove the public disclosure of *all or any*  
 24 *portion of* the information in question, in which case

1 the committee shall not publicly disclose ~~such the~~ infor-  
2 mation *ordered not to be disclosed*, or

3 (C) refer *all or any portion of* the matter back to  
4 the committee, in which case the committee shall make  
5 the final determination with respect to the public dis-  
6 closure of the information in question.

7 Upon conclusion of the consideration of such matter in closed  
8 session, which may not extend beyond the close of the ~~fifth~~  
9 *ninth* day following the day on which such matter was re-  
10 ported to the Senate, the Senate shall immediately vote on  
11 the disposition of such matter in open session, without debate,  
12 and without divulging the information with respect to which  
13 the vote is being taken. The Senate shall vote to dispose  
14 of such matter by *one or more of* the means specified in  
15 clauses (A), (B), and (C) of the second sentence of this  
16 paragraph. *Any vote of the Senate to disclose any information*  
17 *pursuant to this paragraph shall be subject to the right of a*  
18 *Member of the Senate to move for reconsideration of the vote*  
19 *within the time and pursuant to the procedures specified in*  
20 *rule XIII of the Standing Rules of the Senate, and the dis-*  
21 *closure of such information shall be made consistent with*  
22 *that right.*

23 (c) (1) No classified information in the possession of  
24 the ~~Committee on Intelligence Activities~~ *select committee*  
25 relating to the lawful intelligence activities of any depart-

1 ment or agency of the United States which the *select* com-  
2 mittee of the Senate, pursuant to subsection (a) or (b) of  
3 this section, has determined should not be disclosed shall be  
4 made available to any person by a Member, officer, or em-  
5 ployee of the Senate except in a closed session of the Senate  
6 or as provided in paragraph (2).

7 (2) The ~~Committee on Intelligence Activities~~, or any  
8 ~~member of such committee~~, *select committee* may, under such  
9 regulations as the committee shall prescribe to protect the  
10 confidentiality of such information, make any information  
11 described in paragraph (1) available to any other com-  
12 mittee or any other Member of the Senate. Whenever the  
13 ~~Committee on Intelligence Activities~~ *select committee*, or  
14 any member of such committee, makes such information  
15 available, the committee shall keep a written record show-  
16 ing, in the case of any particular information, which com-  
17 mittee or which Members of the Senate received such in-  
18 formation. No Member of the Senate who, and no ~~committee~~,  
19 *committee* which, receives any information under this sub-  
20 section, shall ~~make the disclose such information available to~~  
21 ~~any other person~~, except that a Senator may make such infor-  
22 mation available either in a closed session of the Senate, or to  
23 another Member of the Senate; however, a Senator who  
24 communicates such information to another Senator not a  
25 member of the committee shall promptly inform the Com-

1 ~~mittee on Intelligence Activities~~ *in a closed session of the*  
2 *Senate.*

3 (d) The Select Committee on Standards and Conduct  
4 may investigate any alleged disclosure of intelligence informa-  
5 tion by a Member, officer, or employee of the Senate in viola-  
6 tion of subsection (c). At the request of ~~five of the two~~  
7 members of the ~~Committee on Intelligence Activities or~~  
8 ~~sixteen~~ *select committee or five* Members of the Senate, the  
9 Select Committee on Standards and Conduct shall investi-  
10 gate any such alleged disclosure of intelligence information  
11 and report its findings and recommendations to the Senate.

12 (e) Upon the request of any person who is subject to  
13 any such investigation, the Select Committee on Standards  
14 and Conduct shall release to such individual at the con-  
15 clusion of its investigation a summary of its investigation  
16 together with its findings. If, at the conclusion of its investi-  
17 gation, the Select Committee on Standards and Conduct  
18 determines that there has been a significant breach of con-  
19 fidentiality or unauthorized disclosure by a Member, officer,  
20 or employee of the Senate, it shall report its findings to the  
21 Senate and recommend appropriate action such as censure,  
22 removal from committee membership, or expulsion from the  
23 Senate, in the case of Member, or removal from office or  
24 employment *or punishment for contempt*, in the case of an  
25 officer or employee.

1       ~~SEC. 8. The Committee on Intelligence Activities of the~~  
2       ~~Senate~~ *SEC. 9.* The select committee is authorized to permit  
3 any personal representative of the President, designated by  
4 the President to serve as a liaison to such committee, to  
5 attend any closed meeting of such committee.

6       ~~SEC. 9.~~ *SEC. 10.* Upon expiration of the Select Commit-  
7 tee on Governmental Operations With Respect to Intelli-  
8 gence Activities, established by ~~S. Res.~~ *Senate Resolution 21,*  
9 *Ninety-fourth Congress,* all records, files, documents, and  
10 other materials in the possession, custody, or control of such  
11 committee, under appropriate conditions established by it,  
12 shall be transferred to the ~~Committee on Intelligence Activi-~~  
13 ~~ties~~ *select committee.*

14       ~~SEC. 10.~~ *SEC. 11.* (a) It is the sense of the Senate that  
15 the head of each department and agency of the United States  
16 should keep the ~~Committee on Intelligence Activities of the~~  
17 ~~Senate~~ *select committee* fully and currently informed with  
18 respect to intelligence activities, including any significant  
19 anticipated activities, which are the responsibility of or en-  
20 gaged in by such department or agency.

21       (b) It is the sense of the Senate that the head of any  
22 department or agency of the United States involved in any  
23 intelligence activities should furnish any information or docu-  
24 ment in the possession, custody, or control of the department  
25 or agency, or witness in its employ, whenever requested by  
26 the ~~Committee on Intelligence Activities of the Senate~~ *select*

1 *committee* with respect to any matter within such committee's  
2 jurisdiction.

3 (c) It is the sense of the Senate that each department  
4 and agency of the United States should report immediately  
5 upon discovery to the ~~Committee on Intelligence Activities~~  
6 ~~of the Senate select committee~~ any and all intelligence activ-  
7 ities which constitute violations of the constitutional rights  
8 of any person, violations of law, or violations of Executive  
9 orders, Presidential directives, or departmental or agency  
10 rules or regulations; each department and agency should  
11 further report to such committee what actions have been  
12 taken or are expected to be taken by the departments or  
13 agencies with respect to such violations.

14 ~~SEC. 11. It shall not be in order in the Senate to con-~~  
15 ~~sider any bill or resolution, or amendment thereto, or con-~~  
16 ~~ference report thereon, which appropriates funds for any~~  
17 ~~fiscal year beginning after September 30, 1976, to, or for~~  
18 ~~the use of, any department or agency of the United States~~  
19 ~~to carry out any of the following activities, unless such funds~~  
20 ~~have been previously authorized by law to carry out such~~  
21 ~~activity for such fiscal year—~~

22 (1) The activities of the Central Intelligence  
23 ~~Agency.~~

24 (2) The activities of the Defense Intelligence  
25 ~~Agency.~~

1           ~~(3) The activities of the National Security Agency.~~

2           ~~(4) The intelligence activities of other agencies~~  
3           ~~and subdivisions of the Department of Defense.~~

4           ~~(5) The intelligence activities of the Department~~  
5           ~~of State.~~

6           ~~(6) The intelligence activities of the Federal Bu-~~  
7           ~~reau of Investigation, including all activities of the In-~~  
8           ~~telligence Division.~~

9           SEC. 12. (a) The Committee on Intelligence Activities  
10       *select committee* shall make a study with respect to the fol-  
11       lowing matters, taking into consideration with respect to each  
12       such matter, all relevant aspects of the effectiveness of plan-  
13       ning, gathering, use, security, and dissemination of intelli-  
14       gence—

15           (1) the quality of the analytical capabilities of  
16       United States foreign intelligence agencies and means  
17       for integrating more closely analytical intelligence and  
18       policy formulation;

19           (2) the extent and nature of the authority of the  
20       departments and agencies of the executive branch to  
21       engage in intelligence activities and the desirability of  
22       developing charters for each intelligence agency or  
23       department;

24           (3) the organization of intelligence activities in  
25       the executive branch to maximize the effectiveness of  
26       the conduct, oversight, and accountability of intelligence

1 activities; to reduce duplication or overlap; and to im-  
2 prove the morale of the personnel of the foreign intelli-  
3 gence agencies;

4 (4) the conduct of covert and clandestine activities  
5 and the procedures by which Congress is informed of  
6 such activities;

7 (5) the desirability of changing any law, Senate  
8 rule or procedure, or any Executive order, rule, or regu-  
9 lation to improve the protection of intelligence secrets  
10 and provide for disclosure of information for which there  
11 is no compelling reason for secrecy;

12 (6) *the desirability of establishing a standing com-*  
13 *mittee of the Senate on intelligence activities;*

14 ~~(6)~~ (7) the desirability of establishing a joint com-  
15 mittee of the Senate and the House of Representatives on  
16 intelligence activities in lieu of having separate com-  
17 mittees in each House of Congress, or of establishing  
18 procedures under which separate committees on intelli-  
19 gence activities of the two Houses of Congress would  
20 receive joint briefings from the intelligence agencies and  
21 coordinate their policies with respect to the safeguarding  
22 of sensitive intelligence information;

23 ~~(7)~~ (8) the authorization of funds for the intelli-  
24 gence activities of the government and whether disclo-  
25 sure of any of the amounts of such funds is in the public  
26 interest; and

1           ~~(8)~~ (9) the development of a uniform set of defini-  
2           tions for terms to be used in policies or guidelines which  
3           may be adopted by the executive or legislative branches  
4           to govern, clarify, and strengthen the operation of intel-  
5           ligence activities.

6           (b) The ~~Committee on Intelligence Activities of the~~  
7           Senate select committee shall report the results of the  
8           study provided for under subsection (a) to the Senate,  
9           together with any recommendations for legislative or other  
10          actions it deems appropriate, no later than July 1, 1977, and  
11          from time to time thereafter as it deems appropriate.

12          SEC. 13. (a) As used in this resolution, the term "intel-  
13          ligence activities" includes (1) the collection, analysis, pro-  
14          duction, dissemination, or use of information which relates  
15          to any foreign country, or any government, political group,  
16          party, military force, movement, or other association in such  
17          foreign country, and which relates to the defense, foreign  
18          policy, national security, or related policies of the United  
19          States, and other activity which is in support of such activ-  
20          ities; (2) activities taken to counter similar activities directed  
21          against the United States; (3) covert or clandestine activ-  
22          ities affecting the relations of the United States with any  
23          foreign government, political group, party, military force,  
24          movement or other association; (4) the collection, analysis,  
25          production, dissemination, or use of information about activ-

1 ities of persons within the United States, its territories and  
2 possessions, or nationals of the United States abroad whose  
3 political and related activities pose, or may be considered by  
4 any department, agency, bureau, office, division, instrumen-  
5 tality, or employee of the United States to pose, a threat to  
6 the internal security of the United States, and covert or  
7 clandestine activities directed against such persons. Such  
8 term does not include tactical foreign military intelligence  
9 serving no national policymaking function.

10 (b) As used in this resolution, the term "department or  
11 agency" includes any organization, committee, council, estab-  
12 lishment, or office within the Federal Government.

15 (c) For purposes of this resolution, reference to any  
16 department, agency, bureau, or subdivision shall include a  
17 reference to any successor department, agency, bureau, or  
18 subdivision to the extent that such successor engages in  
19 intelligence activities now conducted by the department,  
20 agency, bureau, or subdivision referred to in this resolution.

21 SEC. 14. Nothing in this resolution shall be construed  
22 as constituting acquiescence by the Senate in any practice, or  
23 in the conduct of any activity, not otherwise authorized by  
24 law.

Amend the title so as to read: "A Resolution establish-  
ing a Select Committee on Intelligence."

## EXHIBIT 4

### SENATE OVERSIGHT OF INTELLIGENCE

(Compiled by William N. Raiford, Analyst in Foreign Affairs, Library of Congress)

#### PREVIOUS PRACTICE

The National Security Act of 1947 established the National Security Council (NSC) and the Central Intelligence Agency (CIA) and provided for the unification of the Armed Services. Senate oversight of the CIA was provided for through an informal agreement worked out by its bipartisan leadership. Under this agreement the Armed Services and Appropriations Committees were granted oversight jurisdiction over the CIA, a responsibility which was delegated to special subcommittees created for that purpose.

Dissatisfaction with that arrangement has been expressed over the years by a small number of Senators, mostly members of the Foreign Relations Committee, who argued that their Committee's jurisdiction over "relations of the United States with foreign nations generally" required knowledge of CIA activities abroad. Legislative proposals to accommodate this view have taken two basic forms: those which would create a joint committee on intelligence oversight and those which would give the Foreign Relations Committee or its members an oversight role. Two bills, one representing each of these positions, have reached the floor of the Senate. In 1955 Senator Mansfield introduced S. Con. Res. 2, which would have created a 12-member Joint Committee on Central Intelligence. The new committee would consist of three members from both the Armed Services and Appropriations Committees, the committees exercising oversight under the existing arrangement, thereby keeping essentially the same members in charge of oversight but concentrating and making more explicit their task. The proposed committee would have had legislative jurisdiction and would have been "fully and currently informed" by the CIA. The resolution was defeated by a vote of 59 to 27.

In 1966 S. Res. 283, which would have established a Committee on Intelligence Operations, was reported out by the Foreign Relations Committee. The proposed committee would have had nine members, three each from the Armed Services, Appropriations and Foreign Relations Committees, and would have had oversight jurisdiction over U.S. foreign intelligence agencies. The bill was referred to the Armed Services Committee on a point of order, sustained by a vote of 61 to 28, that the resolution was subject to the jurisdiction of that committee and had to receive its consideration before being placed on the Senate Calendar.

A number of actions, however, have been responsive to the concern that Foreign Relations Committee members be apprised of foreign intelligence activities. After Senate rejection of S. Res. 283, the Chairman of the CIA Subcommittee of the Armed Services Committee invited three members of the Foreign Relations Committee to attend sessions of the Subcommittee, a practice which was discontinued in the early 1970's. Again in 1974 Senators Mansfield and Hugh Scott, majority and minority leaders and both members of the Foreign Relations Committee, were invited by the Subcommittee Chairman to participate as non-voting members.

With passage of Public Law 93-559 in December 1974 the "appropriate committees . . . including the Foreign Relations Committee of the U.S. Senate" were given statutory oversight responsibilities with respect to foreign covert operations. Section 662 of the law, entitled "Limitations on Intelligence Activities," prohibits the funding of foreign covert operations, "except those intended solely for obtaining the necessary intelligence," unless the President deems it "important to the national security" and submits a report "in a timely fashion . . . to the appropriate committees . . . including the Committee on Foreign Relations of the Senate . . ."

The 94th Congress, prompted by a lengthy New York Times report that the CIA had engaged in domestic intelligence operations and other activities which "directly violated its charter," created Select Committees in both Houses to investigate these charges. The Senate Select Committee To Study Governmental Operations with Respect to Intelligence Activities was instructed to investigate the CIA and other intelligence agencies and to consider "the need for improved, strengthened or consolidated oversight of United States intelligence activities by the Congress."

The Select Committee's investigations publicly confirmed that the nation's intelligence and counterintelligence agencies wiretapped, surveilled and opened the mail of U.S. citizens, intervened in the political processes of other nations to a degree apparently unknown by congressional oversight committees, and engaged in disruptive and provocative acts against political dissidents at home. These findings prompted consideration of legislative proposals to create a new oversight committee in the Senate or a joint committee in the Congress.

#### LEGISLATIVE PROPOSALS

A number of legislative proposals to create joint, select or standing intelligence oversight committees have been introduced in the Senate. The Government Operations Committee initiated hearings on this matter with special consideration directed towards S. 189, S. 317, S. Con. Res. 4, S. 2893, and S. 2865. Of these, S. 2893, sponsored by Senator Frank Church, Chairman of the Select Committee on Intelligence, and cosponsored by seven other members of the Committee, received most consideration.

S. 2893 would establish a standing "Committee on Intelligence Activities" with five members appointed by the majority leader and four members by the minority leader. Committee members and professional staff would not be permitted to serve more than six years on the Committee.

The Committee would have exclusive jurisdiction over the CIA and the Director of Central Intelligence and authorization jurisdiction over

the agencies and departments of the foreign intelligence community, including FBI intelligence. Committee jurisdiction over the organization, reorganization and activities of the agencies and departments of the intelligence community, with the exception of the CIA and the Director of Central Intelligence, would be concurrent with that of other standing committees.

The head of each such department and agency would keep the Committee "fully and currently informed with respect to intelligence activities which are the responsibility of or engaged in by such department or agency." No "significant covert or clandestine operation" would be engaged in until the Committee "ha(s) been fully informed of the proposed activity by the head of the department or agency."

Committee members and employees would be prohibited from disclosing any information in possession of the committee relating to U.S. intelligence activities "except in closed session of the Senate" or "unless authorized by such committee." Such disclosure could occur after a vote by the full Senate over the objection of the President.

S. 317 would establish a "Joint Committee on Intelligence Oversight" composed of 14 members, four from each House to be appointed by the majority leader and three by the minority leader. The duty of the Joint Committee would be the continuing study and investigation of federal bodies dealing with intelligence gathering or surveillance of persons, including the CIA, DIA, NSA, Secret Service and FBI. All bills and other matters within the joint committee's jurisdiction would be referred to the joint committee and could not be considered in either House unless reported out by the joint committee. Specific authorization would be required for any intelligence or surveillance activities before funds could be appropriated for same. The directors of the above named agencies would be required to keep the joint committee "fully and currently informed."

S. Con. Res. 4 would establish a Joint Committee on Information and Intelligence to be composed of seven Members of the Senate appointed by the President of the Senate, and seven Members of the House of Representatives appointed by the Speaker of the House of Representatives.

The joint committee would make continuing studies of: (1) the activities of each information and intelligence agency of the United States; (2) the relationships between information and intelligence agencies of the United States and United States-based corporations and the effect of such relationships on United States foreign policy and intelligence operations abroad; (3) the problems relating to information and intelligence programs; and (4) the problems relating to the gathering of information and intelligence affecting the national security, and its coordination and utilization by the various departments, agencies, and instrumentalities of the United States.

Each information and intelligence agency of the United States would give to the joint committee such information regarding its activities as the committee may require.

S. 189 would establish a Joint Committee on the Continuing Study of the Need to Reorganize the Departments and Agencies Engaging in Surveillance.

It would be the function of the joint committee: (1) to make a continuing study of the need to reorganize the departments and agencies of the United States engaged in the investigation or surveil-

lance of individuals, (2) to make a continuing study of the inter-governmental relationship between the United States and the States insofar as that relationship involves the area of investigation or surveillance of individuals; and (3) to file reports at least annually, and at such other times as the joint committee deems appropriate, with the Senate and the House of Representatives, containing its findings and recommendations with respect to the matters under study by the joint committee.

The joint committee would be required to at least annually, receive the testimony under oath, of a representative of every department, agency, instrumentality, or other entity of the Federal Government, which engages in investigations or surveillance of individuals. Such testimony shall relate to: (1) the full scope and nature of the respective department's, agency's, instrumentality's or other entity's investigations or surveillance of individuals; and (2) the criteria, standards, guidelines, or other general basis utilized by each such department, agency, instrumentality, or other entity in determining whether or not investigative or surveillance activities should be initiated, carried out, or maintained.

S. 2865 would establish a Committee on Intelligence Oversight comprised of ten members with legislative jurisdiction over matters relating to the United States intelligence community, including: (1) the Central Intelligence Agency; (2) the Defense Intelligence Agency; and (3) the National Security Agency.

Disclosure to unauthorized persons of any information in the possession of the Committee by any Committee member, agent, or employee would result in automatic suspension of any Committee member and possible expulsion from the Senate. The bill sets criminal penalties for any employee of the committee who violates the non-disclosure provisions of this Act.

Annual reports to the Committee from the Directors of the FBI, CIA, and Defense Intelligence Agency reviewing the operations of each agency or bureau would be required and made available to the public.

#### COMMITTEE ACTION

##### *(a) Government Operations Committee*

The Government Operations Committee held nine days of hearings and heard 26 witnesses testify on legislative proposals designed to improve oversight of the intelligence community. Of the Senators, former and current Cabinet officials, and Directors of Central Intelligence who testified, most favored creation of a new oversight committee although three members of the Senate Armed Services Committee strongly opposed such an action. The Senators tended to favor a standing committee of the Senate, but executive branch officials advocated a joint committee which would concentrate oversight and reduce the number of committees involved.

Chairman Ribicoff opened the hearings by declaring that he strongly favored creation of a new committee. He suggested that the answers to the following questions should influence its structure:

First, should the committee be a joint committee of Congress or a permanent committee of the Senate, should Senators serve on the committee on a rotating basis, and should the legislation explicitly reserve seats on the committee for members of other committees?

Second, should the new committee have jurisdiction over legislation, including authorization legislation, involving the Government's national intelligence activities?

Should the entire intelligence activities of the Government be subject to annual authorization legislation reviewed by the new committee?

Third, should the committee have jurisdiction over domestic intelligence activities and, if so—what type of jurisdiction?

Fourth, to what extent should the legislation spell out the extent and nature of the duty of the executive branch to keep the new committee fully and currently informed of its activities and plans?

Fifth, should the bill amend the procedures now governing notice to Congress of any covert actions undertaken by the executive branch?

Sixth, what, if anything, should the legislation say about the standards and safeguards that should govern the committees disclosure of sensitive information to other Senators, and to the general public?

Senators Mansfield, Church, Baker, Nelson, Cranston and Huddleston testified in favor of a new Senate oversight committee. Both Senators Mansfield and Church emphasized the importance of having a committee with a comprehensive mandate which could "accommodate an integrated perception of national intelligence." They argued that the existing system of piecemeal, uncoordinated oversight had not worked and would not do so. Senator Mansfield asserted that intelligence community's excesses were "a direct result of congressional neglect and inattention," endorsed rotating membership and stated that an annual authorizing function was "essential to the question of accountability."

Senators Tower, Thurmond and Goldwater strongly opposed alteration of the existing oversight system. Senator Tower felt the proposed legislation was "hastily conceived and simplistic" and stated that the present oversight committees can and should continue to carry out their responsibilities. Senator Goldwater noted that "In the past, there was little oversight of the intelligence community . . . (but) . . . If the Congress wants more oversight, the existing committees can and should be required to perform." Goldwater asserted that the idea of rotating membership was an assault on seniority and expertise and noted that the present committees had good, experienced staffs. Senator Thurmond argued that the Church bill (S. 2893) divorced the intelligence functions of the Armed Services, Foreign Relations, Judiciary and Finance Committees from their substantive work and should therefore be opposed.

Most current and former executive branch officials who testified strongly endorsed creation of a new oversight committee. Secretary of State Kissinger and former CIA Director William Colby both urged prompt action on the matter; "the sooner the better," said Colby. Colby also emphasized that "reasonable limits" should be placed upon the matters made available to such a committee and endorsed sanctions against executive branch and congressional employees who violated secrecy agreements. Kissinger, Colby, former Secretary of State Dean Rusk and long-term Presidential advisor Clark Clifford all voiced a clear preference for a joint committee, indicating that one advantage of such an arrangement would be to facilitate executive-legislative relationships.

Providing information on covert operations to the Congress was one of the more delicate issues discussed during the hearings. Secretary of State Kissinger, representing the Administration viewpoint, indicated that "the proper constitutional perspective" would suggest that the existing system of informing the Congress "in a timely fashion" was "adequate for oversight," but that preferably this information should be "concentrated in the (proposed) oversight committee." Clark Clifford urged that the law require notification of Congress prior to the execution of a covert action project. If the committee disapproves, he continued, the President would be notified. If "the President is determined to proceed on the project, then he may have the constitutional power to make that decision. Also, under the Constitution, the Congress could decide, on recommendation of the Joint Committee, to withhold funds necessary to finance the activity in question." Senator Thurmond argued that "prior restraints on Executive action contemplated will not only stay the President's hand in the conduct of our foreign affairs, but will intrude the legislature into the sphere of the Executive." Senator Church's viewpoint was that if the new committee were to perform its role, "then constitutionally we must remember that the Senate of the United States is to advise as well as to consent in foreign policy matters, and if it is to give its advice, it must have advance notice of significant operations of this kind."

Attorney General Edward H. Levi, testified that the FBI's counter-intelligence activities were directed towards law enforcement and its activities should be seen as different from those of the intelligence agencies. He urged that FBI oversight and authorization activities not be placed within the jurisdiction of a new oversight committee.

*S. Res. 400*

On February 24, 1976, the Government Operations Committee voted 12-0 in favor of S. Res. 400, which would amend Rule XXV of the Senate to establish a standing Committee on Intelligence Activities with primary legislative, authorization, and oversight jurisdiction over Federal intelligence agencies and activities, including (1) the Central Intelligence Agency, (2) the Defense Intelligence Agency, (3) the National Security Agency, (4) other national intelligence activities of the Department of Defense, and (5) the intelligence activities of the Department of State and the Federal Bureau of Investigation. The standing committee would also have legislative and oversight jurisdiction over the "intelligence activities of all other departments and agencies of the government . . ."

The committee would be composed of 11 members, six from the majority and five from the minority parties, selected in the same manner as are other standing committees. Membership would rotate, with no member permitted to serve for more than six consecutive years. No professional staff member or consultant could serve the committee for a period totaling more than six years.

Agency heads would be required to keep the committee "fully and currently informed with respect to intelligence activities, including any significant anticipated activities" and to report immediately any violations of the constitutional rights of any person and any violations of law or executive order.

The resolution would establish procedures to control the disclosure of information within the Senate and to the public. These procedures

would (1) prohibit the unauthorized disclosure of information and (2) permit disclosure of information, with Senate approval, over the written objection of the President. Alleged, unauthorized disclosure of intelligence information would be investigated by the Select Committee on Standards and Conduct upon request of five members of the committee or 16 Members of the Senate. The Select Committee would "report its findings and recommendations to the Senate."

(b) *Judiciary Committee*

S. Res. 400 was referred to the Judiciary Committee on March 18, 1976, and hearings were held on March 25 and 30. S. Res. 400 was interpreted by most members of the Committee as stripping it of its jurisdiction over the intelligence activities of the Department of Justice, particularly those of the FBI's Intelligence Division.

Attorney General Edward H. Levi testified that oversight of the FBI and the Department of Justice should be viewed as a whole and that their activities should be seen from a law enforcement perspective with its criminal investigations nexus. He favored retention by the Judiciary Committee of oversight over the Department of Justice. FBI Director Clarence Kelly concurred with the Attorney General's position and expressed concern about the possibility of "conflicting directives" if oversight of his Bureau were exercised by more than one committee.

Senator Walter Mondale, Chairman of the Subcommittee on Domestic Intelligence of the Senate Select Committee on Intelligence noted that his subcommittee's investigations revealed that FBI abuses had occurred primarily in the areas of intelligence and not law enforcement. He argued that if law enforcement officers had the right to go beyond traditional civil and criminal violations of the law exceptional vigilance was needed, and suggested that S. Res. 400 be amended to provide for concurrent oversight jurisdiction and joint referral of bills to both Judiciary and the proposed committee.

Senator Charles McC. Mathias, a member of both the Judiciary Committee and the Select Committee on Intelligence, favored concurrent jurisdiction and pointed out that the two committees would be looking at Department of Justice's intelligence activities from differing perspectives; the proposed oversight committee would be concerned primarily with the success and effectiveness of intelligence and the manner in which it was carried out whereas the Judiciary Committee would oversee from a law enforcement viewpoint.

On March 30, 1976, the Judiciary Committee reported its recommendations on S. Res. 400 to the Committee on Rules and Administration after voting to delete those provisions of the resolution which would grant jurisdiction over the intelligence activities of the Department of Justice, including the FBI, to the Committee on Intelligence Activities. The Committee earlier rejected by voice vote an amendment proposed by Senator Kennedy which would have provided for the sharing of jurisdiction between the Judiciary Committee and the proposed Committee.

(c) *Committee on Rules and Administration*

The Senate Committee on Rules and Administration held four days of hearings on S. Res. 400, hearing testimony from the Director of Central Intelligence (DCI) George Bush and a number of Senators.

Chairman Cannon questioned the effect the resolution would have on certain rules and established procedures of the Senate, expressed

doubt about the capability of the Armed Services Committee adequately to review the Department of Defense budget if authorization authority over DOD national intelligence activities were granted to the new committee, noted that the Senate Legislative Counsel had advised that under a Senate Resolution (as opposed to a statute) the executive departments might not feel compelled to comply with the provision to keep the proposed committee "fully and currently informed" and wondered if a joint committee might not provide a better oversight arrangement.

Senator Byrd asserted that S. Res. 400 could not pass as written and suggested the alternative of creating a standing committee with subpoena power but without legislative or authorization jurisdiction in order to meet the political necessity for creating some kind of committee. "The oversight committee, if it has the power of subpoena, can get whatever information it needs," he argues.

Senator Stennis, Chairman of the Armed Services Committee and of its CIA Subcommittee, noted that his committee had discussed S. Res. 400 at two meetings; he stated that "were the Armed Services Committee to be deprived of (its) legislative authority, the intelligence community could become a separate entity unresponsive to the needs of national defense." Stennis rejected any proposal that would deprive his committee of its legislative jurisdiction and authorization authority; instead he recommended creation of a Permanent Armed Services Subcommittee on Intelligence, separately funded and staffed, cooperating with the Foreign Relations Committee and including the elected leadership of the Senate.

Senator Byrd asked Senator Stennis how he would feel about creation of a joint committee, including as members the chairmen of of the Armed Services, Foreign Relations, and Government Operations Committees and appointees of the leadership. Senator Stennis found the idea of a joint committee with "some oversight and surveillance on a gentlemanly basis" acceptable but strongly rejected any transfer of jurisdiction because, although his committee would still be able to obtain intelligence information its "continuity of relationship" would be lost.

Senator Church, Chairman of the Senate Select Committee on Intelligence, supported S. Res. 400 and asserted that an intelligence oversight committee, in order to be an effective instrument, must have (1) jurisdiction over the entire national intelligence community, (2) jurisdiction over the national intelligence budget "authorized on an annual basis," and (3) access to information. "Neither the Armed Services Committee nor any other committee has the time, because of its other duties, or the necessary overall jurisdiction to attend to the nation's intelligence system" he stated, adding that "The Executive budgets for and organizes and directs the national intelligence effort in a way that draws together the various components, and unless the Congress establishes a committee that can do the same, it will continue to fail in its oversight responsibilities."

Senators Stennis, Tower and Taft argued that authorizations for DOD intelligence could not be separated from the overall Defense budget. Senator Stennis stated that it "won't work" to ask the Armed Services Committee to handle only the personnel and hardware of a \$100 billion dollar budget "much of it founded, bottomed on, intelligence" unless authorization jurisdiction over defense intelligence were retained by the Committee. He added that Senate-House

Armed Services Committee conferences on defense authorization bills would be a "procedural nightmare" if his committee lost authorization jurisdiction over DOD intelligence.

Senator Nunn, believing that meaningful interchange between the intelligence community and the Armed Services and Foreign Relations committees would be difficult if another committee had authorization authority, proposed creation of an Oversight Panel composed of members of the Armed Services, Foreign Relations and Appropriations Committees as an alternative to S. Res. 400.

George Bush, Director of Central Intelligence, testified in favor of strong, concentrated oversight, noting that it permitted the intelligence community to gain the advice and counsel of knowledgeable members and to maintain the trust and support of the American people. Such popular support was dependent upon a political structure which provided clear accountability. Provisions of S. Res. 400 which the DCI found it difficult to accept, however, were Section 7, which would permit the disclosure by the Senate of classified information over the objection of the President, and Section 11, which would require periodic authorization of appropriations. Bush felt that disclosure permitted under Section 7 might conflict with the statute requiring the DCI to "protect intelligence sources and methods;" and he noted that the Central Intelligence Agency Act of 1949 provided for a continuing authorization for the CIA. On the latter point Bush stated, "We would not oppose a requirement to brief the proposed Committee on the CIA budget, and a requirement that the intelligence committee file a classified letter containing its CIA budget recommendations with the Appropriations Committee."

Senator Church explained that Section 7 represented an attempt to accommodate both the speech and debate clause of the Constitution (providing immunity to Senators from being questioned in any other place while performing legislative functions) and the security of legitimate secrets. (Section 7 also provides for sanctions against the unauthorized release of classified information.)

The Secretary of Defense, in a letter placed in the record by Chairman Cannon, pointed to two major problems his department foresaw with the granting of authority to the new committee; one—the visibility of the intelligence budget would create problems of confidentiality, and two—if the Senate and House had different authorizing systems, different, and time consuming DOD budget formulations would be required.

Senator Hruska testified that the Legislative Reorganization Act of 1946 had set standards controlling committee jurisdiction, which included the "coordination of the congressional committee system with the pattern of the administrative branch of the National Government" and that under this guideline the Judiciary Committee should continue to exercise jurisdiction over the Department of Justice, including the FBI.

Senator Ribicoff, chairman of the committee which drafted S. Res. 400, testified that a standing committee with legislative jurisdiction was necessary but suggested that the resolution be amended so that committees with jurisdiction over intelligence activities retain oversight on a concurrent basis with the proposed committee and that jurisdiction over FBI domestic intelligence be removed from the proposed committees' mandate.